

## DISTRICT OF COLUMBIA REGISTER

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(J) Organizing or attending meetings with business groups and other organizations to provide information on the District's local, small, and disadvantaged business enterprise programs, the certification process, and the services and activities of the Department;

(K) Making known to the public and the business community information on the District's local, small, and disadvantaged business enterprise programs and the certification process; and

(L) Making known to the public and the business community information on the services and activities of the Department; and

(3) The Office of Training and Education, which shall be responsible for the following:

(A) Coordinating the District's offerings, curricula, and locations of educational and training classes, sessions, and seminars to assist small businesses in the following areas:

(i) Basic and intermediate business skills, such as bookkeeping, accounting, and marketing;

(ii) Locating and obtaining contracting and procurement opportunities; and

(iii) Locating and obtaining financing and capital;

(B) Maintaining a current list of educational and training classes, sessions, and seminars in the Washington Metropolitan Region in the subject areas set forth in subparagraph (A) of this paragraph offered by persons or organizations outside the District government;

(C) To the extent feasible, coordinating the offerings, curricula, and locations of educational and training classes, sessions, and seminars in the Washington Metropolitan Region in the subject areas set forth in subparagraph (A) of this paragraph offered by persons or organizations outside the District government;

(D) To the extent necessary, providing educational and training classes, sessions, and seminars in the subject areas set forth in subparagraph (A) of this paragraph which are not otherwise conveniently or comprehensively provided by the District government or persons or organizations outside the District government; and

(E) Training agency contracting officers on the requirements and procedures of this subtitle.

(d) The Director may establish such other offices and the Department may take such other actions as are necessary or appropriate to carry out the provisions of this subtitle.

Part C. District of Columbia Small and Local Business  
Opportunity Commission.

Sec. 2321. District of Columbia Small and Local Business Opportunity Commission Establishment; composition; appointment; term of office; qualifications; vacancies; removal; compensation.

(a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved

December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), there is established the District of Columbia Small and Local Business Opportunity Commission. The Commission is the successor in interest to the Local Business Opportunity Commission, established by section 4(a) of the Minority Contracting Act of 1976, effective March 29, 1977 ( D.C. Law 1-95; D.C. Official Code § 2-215.03(a)).

(b)(1) The Commission shall consist of 9 members. The Mayor shall appoint one member from each ward of the District and one at-large member to staggered, 2-year terms with the advice and consent of the Council, in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01).

(2) All members of the Commission shall be residents of the District of Columbia.

(3) Commissioners shall be eligible for reappointment.

(4) All commissioners shall have knowledge of the small, local, or disadvantaged business community as it relates to employment and economic development.

(5) Notwithstanding the provisions of this section, current members of the Local Business Opportunity Commission, as established by section 4(a) of the Minority Contracting Act of 1976, effective March 29, 1977 ( D.C. Law 1-95; D.C. Official Code § 2-215.03(a)), shall be considered qualified and may continue to serve as members of the Commission until new members are appointed.

(c)(1) The Mayor shall appoint the chairperson of the Commission from among its members with the advice and consent of the Council. The nomination of the chairperson shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the nomination within the 45-day period of review, the nomination shall be deemed approved.

(2) The chairperson shall serve as the chairperson at the pleasure of the Mayor.

(d) Any person appointed to fill a vacancy on the Commission shall be appointed only for the unexpired term of the member whose vacancy is being filled.

(e) The Mayor may remove any member of the Commission for misconduct, incapacity, or neglect of duty in accordance with procedures that the Mayor shall establish and that shall include procedures for notification and an opportunity for hearing.

(f)(1) The Commission shall meet at least once each month for the purpose of transacting any business as may properly come before it.

(2) The Commission shall meet with the Chairman of the Council Committee on Economic Development at least once per year.

(3) Special meetings may be held at such times as the chairperson may provide. Notice of each meeting and the time and place thereof shall be given to each member in such manner as the Commission may provide.

(4) The Commission may permit members to participate in meetings for the certification of joint ventures by means of a conference telephone, interactive conference video, or other similar communications equipment when it is otherwise difficult or infeasible for the members to attend the meeting in person; provided, that each member participating by such device

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can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the Commission who speaks during the meeting.

(g) A majority of the members appointed to the Commission at any given time shall constitute a quorum for the transaction of official business. Official actions of the Commission shall be based on a majority vote of the members participating at the meeting.

(h) A Commission member who has a direct financial or personal interest in any measure pending before the Commission shall disclose this fact to the Commission and shall not vote upon such measure.

(i) Members of the Commission shall serve without compensation for their service on the Commission.

Sec. 2322. Functions of the Commission.

The Commission shall:

(1) Determine a business enterprise's or joint venture's eligibility for certification under part D and review and determine the continued eligibility of business enterprises and joint ventures certified by the Commission;

(2) Determine the percentage of the dollar amount of a joint venture which may be attributed toward an agency's percentage goal; and

(3) Repeal and suspend the certification of a business enterprise pursuant to section 2363.

Sec. 2323. Additional functions of the Commission.

The Commission shall:

(1) Educate the public, including District residents and businesses, about the District's programs for local, small, and disadvantaged business enterprises;

(2) Stimulate and foster greater opportunities for local, small, and disadvantaged business enterprises to participate in the District's contracting and procurement process and provide recommendations to the Council and the Mayor on ways to increase the participation;

(3) Maintain contacts with the business community, including financial institutions and bonding companies, and elicit cooperation for economic opportunities for local, small, and disadvantaged business enterprises;

(4) Make recommendations related to agency and third-party contracting and procurement activities to increase participation by local, small, and disadvantaged business enterprises;

(5) Review the annual reports of agencies and make appropriate recommendations as set forth in section 2352;

(6) Review the triennial reports required by section 2371 and the goals, intents, and purposes of this subtitle, and make appropriate recommendations as set forth in section 2371; and

(7) Take such other actions as are necessary or appropriate to carry out

the responsibilities of the Commission under this subtitle.

Sec. 2324. Record keeping.

(a) A record of the proceedings of the Commission shall be kept and files shall be maintained.

(b) The Commission shall maintain a register of all applicants for registration showing for each applicant the date of the application, name, qualifications, place of business, place of applicant's residence, and whether the certificate was granted or denied.

(c) The books and register of the Commission shall be prima facie evidence of all matters recorded therein.

Sec. 2325. By-laws and internal rules.

The Commission may promulgate, amend, repeal, and enforce any by-laws and internal rules of operation, consistent with the provisions of this subtitle, as may be necessary or appropriate to carry out its responsibilities under this subtitle.

Part D. Programs for Certified Business Enterprises.

Subpart 1. Certified business enterprises.

Sec. 2331. Local business enterprises.

A business enterprise shall be eligible for certification as a local business enterprise if the business enterprise:

- (1) Has its principal office located physically in the District of Columbia;
- (2) Requires that its chief executive officer and the highest level managerial employees of the business enterprise maintain their offices and perform their managerial functions in the District; and
- (3)(A) Is licensed pursuant to Chapter 28 of Title 47 of the District of Columbia Official Code;
- (B) Is subject to the tax levied under Chapter 18 of Title 47 of the District of Columbia Official Code; or
- (C) Is a business enterprise identified in § 47-1808.01 (1) through (5) of the District of Columbia Official Code and more than 50% of the business is owned by residents of the District.

Sec. 2332. Small business enterprises.

(a) A business enterprise shall be eligible for certification as a small business enterprise if the business enterprise:

- (1)(A) Is a local business enterprise; or
- (B) Is a qualified metropolitan area business enterprise;
- (2) Is independently owned, operated, and controlled; and
- (3)(A) Is certified by the United States Small Business Administration as a small

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business concern under the Small Business Act, approved July 18, 1958 (72 Stat. 863; 15 U.S.C. § 631 *et seq.*); or

(B) Has had average annualized gross receipts for the 3 years preceding certification not exceeding the following limits:

|   |                |
|---|----------------|
| Construction, Heavy (Street and Highways, Bridges, etc.)                | \$23 million   |
| Construction, Building (General Construction, etc.)                     | \$21 million   |
| Construction, Specialty Trades  | \$13 million   |
| Goods and Equipment   | \$20 million   |
| General Services  | \$19 million   |
| Professional Services, Personal Services (Hotel, Beauty, Laundry, etc.) | \$5 million    |
| Professional Services, Business Services                                | \$10 million   |
| Professional Services, Health and Legal Services                        | \$10 million   |
| Professional Services, Health Facilities Management                     | \$19 million   |
| Manufacturing Services  | \$10 million   |
| Transportation and Hauling Services                                     | \$13 million   |
| Financial Institutions  | \$300 million. |

(b) A business enterprise that is affiliated with another business enterprise through common ownership, management, or control shall be eligible for certification as a small business enterprise if:

(1) The business enterprise seeking certification as a small business enterprise is a local business enterprise or a qualified metropolitan area business enterprise;

(2) The consolidated financial statements of the affiliated business enterprises do not exceed the average annualized gross receipt limits established by subsection (a)(3)(B) of this section; and

(3) In the event of a parent-subsidary affiliation, the parent company qualifies for certification as a small business enterprise.

(c) If a business enterprise seeking certification as a small business enterprise is affiliated only with one or more business enterprises that are in a different line of business, subsection (b) of this section shall not apply, and the business enterprise shall be eligible for certification as a small business enterprise if it meets the requirements of subsection (a) of this section.

#### Sec. 2333. Disadvantaged business enterprises.

(a) A business enterprise shall be eligible for certification as a disadvantaged business enterprise if the business enterprise is:

(1) Owned, operated, and controlled by economically disadvantaged individuals; and

(2)(A) Is a local business enterprise; or

(B) Is a qualified metropolitan area business enterprise.

(b) A business enterprise that is affiliated with another business enterprise through common ownership, management, or control shall be eligible for certification as a disadvantaged business

enterprise if:

- (1) The business enterprise seeking certification as a disadvantaged business enterprise is a local business enterprise or a qualified metropolitan area business enterprise; and
- (2) In the event of a parent-subsidiary affiliation, both enterprises meet the requirements of subsection (a) of this section.

**Sec. 2334. Qualified metropolitan area business enterprises.**

A business enterprise shall be eligible for certification as a qualified metropolitan area business enterprise if the business enterprise is independently owned, operated, and controlled and:

- (1) Has its principal office located in the Washington-Arlington-Alexandria, DC-MD-VA-WV Metropolitan Division, as defined by the Office of Management and Budget Bulletin No. 05-02; and
- (2) Meets 3 of the 4 following standards:
  - (A) More than 50% of the assets of the business enterprise, excluding bank accounts, are located in the District;
  - (B) More than 50% of the employees of the business enterprise are residents of the District;
  - (C) The owners of more than 50% of the business enterprise are residents of the District; or
  - (D) More than 50% of the total sales or other revenues are derived from transactions of the business enterprise in the District.

**Sec. 2335. Resident-owned businesses.**

A business enterprise shall be eligible for certification as a resident-owned business if it meets the definition of resident-owned business pursuant to section 2302.

**Sec. 2336. Longtime resident businesses.**

A business enterprise shall be eligible for certification as a longtime resident business if it meets the definition of longtime resident business pursuant to section 2302.

**Sec. 2337. Local business enterprises with principal offices located in an enterprise zone.**

A local business enterprise shall be eligible for certification as a local business enterprise with principal offices located in an enterprise zone if its principal offices are located in an enterprise zone as defined by section 2302.

**Subpart 2. Requirements of programs.**

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Sec. 2341. Goals for District agencies with respect to contracting and procurement with small business enterprises.

(a) Each agency, including an agency that contracts or procures in whole or in part through the Office of Contracting and Procurement, shall exercise its contracting and procurement authority so as to meet, on an annual basis, the goal of procuring and contracting 50% of the dollar volume of its goods and services, including construction goods and services, to small business enterprises.

(b) The dollar volume referenced in subsection (a) of this section shall be based on the expendable budget of the agency.

Sec. 2342. Required programs, procedures, and policies to achieve contracting and procurement goals.

To achieve the goals set forth in this subtitle, the Department shall establish by rules issued pursuant to section 2372, programs for local, small, and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local business enterprises with principal offices located in an enterprise zone. The Department shall include among these programs:

- (1) A bid preference mechanism for local and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local business enterprises with principal offices located in an enterprise zone;
- (2) A set-aside program for small business enterprises; and
- (3) A set-aside program for local, small, and disadvantaged business enterprises for the District of Columbia Supply Schedule.

Sec. 2343. Bid and proposal preferences.

(a) In evaluating bids or proposals, agencies shall award preferences as follows:

- (1) In the case of proposals, points shall be granted as follows:
  - (A) Three points for a small business enterprise;
  - (B) Three points for resident-owned business;
  - (C) Ten points for a longtime resident business;
  - (D) Two points for a local business enterprise;
  - (E) Two points for a local business enterprise with its principal office located in an enterprise zone; and
  - (F) Two points for a disadvantaged business enterprise.
- (2) In the case of bids, a percentage reduction in price shall be granted as follows:
  - (A) Three percent for a small business enterprise;
  - (B) Three percent for resident-owned business;
  - (C) Ten percent for a longtime resident business;
  - (D) Two percent for a local business enterprise;
  - (E) Two percent for a local business enterprise with its principal office located in an enterprise zone; and
  - (F) Two percent for a disadvantaged business enterprise.

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(b) A certified business enterprise shall be entitled to any or all of the preferences provided in this section, but in no case shall a certified business enterprise be entitled to a preference of more than 12 points or a reduction in price of more than 12 percent.

Sec. 2344. Mandatory set-asides of small contracts for small business enterprises.

(a) Except as provided in section 2345, each agency shall set aside every contract or procurement of \$100,000 or less for small business enterprises; provided, that the agency shall not be required to set aside a contract or procurement if the agency determines in writing that there are not at least 2 responsible certified small business enterprises that can provide the services or goods which are the subject of the contract.

(b) An agency may refuse to award a contract or procurement set aside under this section, and may thereafter issue the contract or procurement in the open market if the agency determines in writing that the bids for the contract or procurement set aside for a small business enterprise are believed to be 12% or more above the likely price on the open market.

Sec. 2345. Mandatory set-asides of contracts in the District of Columbia Supply Schedule for small business enterprises.

Each agency shall set aside every contract of \$100,000 or less for the District of Columbia Supply Schedule for small business enterprises; provided, that the agency shall not be required to set aside a contract if the agency determines in writing that there are not at least 2 responsible certified small business enterprises on the DCSS that can provide the services or goods which are the subject of the contract.

Sec. 2346. Performance and subcontracting requirements for construction contracts; subcontracting plans.

(a) All construction contracts shall include a requirement that at least 35% of the dollar value, excluding the cost of materials, goods, and supplies, be subcontracted to small business enterprises, except that if there are insufficient qualified small business enterprises to fulfill this requirement, then 35% of the dollar value, excluding the cost of materials, goods, and supplies, shall be subcontracted to local, small, or disadvantaged business enterprises.

(b)(1)(A) Each construction contract for which a local, small, or disadvantaged business enterprise is selected as a prime contractor and is granted points or a price reduction pursuant to section 2343 or is selected through a set-aside program under this subpart shall include a requirement that the business enterprise perform at least 35% of the contracting effort, excluding the cost of materials, goods, and supplies, with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort, excluding the cost of materials, goods, and supplies, shall be with local, small, or disadvantaged business enterprises.

(B) If the total of the contracting effort, excluding the cost of materials, good, and supplies, proposed to be performed by local, small, or disadvantaged business enterprises is less



than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall not be eligible to receive preference points or price reductions for a period of not less than 2 years.

(2)(A) Each construction contract for which a joint venture is selected as a prime contractor and is granted points or a price reduction pursuant to section 2343 or is selected through a set-aside program under this subpart shall include a requirement that the local, small, or disadvantaged business enterprise perform at least 50% of the contracting effort, excluding the cost of materials, goods, and supplies, with its own organization and resources and, if the joint venture subcontracts, 35% of the subcontracted effort, excluding the cost of materials, goods, and supplies, shall be with local, small, or disadvantaged business enterprises.

(B) If the total of the contracting effort, excluding the cost of materials, good, and supplies, proposed to be performed by local, small, or disadvantaged business enterprises is less than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall not be eligible to receive preference points or price reductions for a period of not less than 2 years.

(c) Each construction contract of \$1 million or less for which a local, small, or disadvantaged business enterprise is selected as a prime contractor and is granted points or a price reduction pursuant to section 2343 or is selected through a set-aside program under this subpart shall include a requirement that the business enterprise perform at least 50% of the on-site work with its own work force.

(d) Bids or proposals responding to a solicitation, including an open market solicitation, shall be deemed nonresponsive and shall be rejected if the solicitation requires submission of a local, small, or disadvantaged business enterprise subcontracting plan and the prime contractor fails to submit a subcontracting plan as part of its bid or proposal. A local, small, or disadvantaged business enterprise subcontracting plan shall specify the following:

- (1) The name and address of the subcontractor;
- (2) Whether the subcontractor is currently certified as a local, small, or disadvantaged business enterprise;
- (3) The scope of work to be performed by the subcontractor; and
- (4) The price to be paid by the contractor to the subcontractor.

(e) No prime contractor shall be allowed to amend the subcontracting plan filed as part of its bid or proposal except with the consent of the contracting officer and the Director. Any reduction in the dollar value of the subcontracted portion resulting from such amendment of the plan shall inure to the benefit of the District.

(f) No multiyear contracts or extended contracts in which the options or extensions exceed \$1 million in value, which are not in compliance with this subtitle at the time of the contemplated exercise of the option or extension, shall be renewed or extended, and any such option or extension shall be void.

(g) The subcontracting requirements of this section may be waived pursuant to section 2351.

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## Sec. 2347. Unbundling requirement.

The Mayor shall establish procedures to ensure that solicitations are subdivided and unbundled and that smaller contracts are created to the extent feasible and fiscally prudent.

## Sec. 2348. Enforcement and penalties for willful breach of subcontracting plan.

The willful breach by a contractor of a subcontracting plan for utilization of local, small, or disadvantaged businesses in the performance of a contract, the failure to submit any required subcontracting plan monitoring or compliance report, or the deliberate submission of falsified data may be enforced by the Department through the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the contractor was to subcontract to local, small, or disadvantaged businesses, whichever is greater, for each such breach, failure, or falsified submission.

## Sec. 2349. Other procedures and programs.

(a) The Mayor shall establish policies and procedures to maximize the participation of local, small, and disadvantaged business enterprises in the contracting and procurement processes, including:

(1) A procedure whereby an agency may waive bid security requirements on contracts in excess of \$100,000, where the waiver is appropriate to achieve the purposes of this subtitle; and

(2) A policy whereby an agency shall make advance payments to a certified contractor, where the payments are necessary to achieve the purposes of this subtitle.

(b) The Mayor may establish a pilot set-aside program for small business enterprises with gross revenues of \$5 million or less.

## Sec. 2350. Special requirements for government corporations.

(a) A government corporation shall comply with all provisions of this subtitle.

(b)(1)(A) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to each major phase of the development and construction of a project undertaken by the government corporation, including contracts for architectural, engineering, and construction services, shall provide that at least 35% of the work in the aggregate under such contracts shall be awarded to small business enterprises.

(B) In the event that there are insufficient qualified small business enterprises to fulfill this requirement, 35% of the dollar value, excluding the cost of materials, goods, and supplies, shall be subcontracted to local, small, or disadvantaged business enterprises.

(2) Of the work required to be awarded pursuant to paragraph (1) of this subsection, at least 10% of those business enterprises shall be located in the ward in which the work is being performed.

(3) If 35% of the work required to be awarded pursuant to paragraph (1) of this

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subsection, is unattainable, the government corporation shall report this fact to the Council for reconsideration of this requirement.

(c) The subcontracting requirement of subsection (b) of this section may be waived pursuant to section 2351.

(d)(1) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to the development and construction of a project undertaken by the government corporation, comply with the First Source Employment requirements of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*).

(2) Of the jobs required to be filled pursuant to paragraph (1) of this subsection, at least 20% of those jobs shall be designated for residents in the ward in which the work is being performed.

(e)(1) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation or any agency or subsidiary of the government corporation with respect to the development and construction of a project undertaken by the government corporation shall comply with the requirements of An Act To provide for voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1401 *et seq.*).

(2)(A) Fifty percent of all apprenticeship hours performed pursuant to any apprenticeship programs related to the construction and operation of a project undertaken by the government corporation shall be performed by District of Columbia residents.

(B) Any prime contractor or subcontractor that fails to make a good faith effort to comply with the requirements of this paragraph shall be subject to a monetary fine in the amount of 5% of the direct or indirect labor costs of the contract. Fines shall be imposed by the Department of Employment Services to be applied to job training programs, subject to appropriations by Congress.

(f) Beginning with the first full quarter after the effective date of this subtitle, each government corporation shall provide a quarterly report to the Department within 30 days after the end of each quarter. The quarterly report shall include the following information:

(1) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in construction and development projects;

(2) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in development projects as equity partners; and

(3) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises for contracting and procurement of goods and services.

(g) Beginning with fiscal year 2006, each government corporation shall provide an annual report to the Department within 45 days after the end of each fiscal year. The annual report shall include:

(1) The information required to be included in the quarterly reports (with the dollar

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percentages and volumes calculated on an annual basis);

(2) The dollar volume and percentage of the contracts and procurements awarded during the fiscal year which were actually paid (including payments through subcontracting) to:

- (A) Local, small, and disadvantaged business enterprises;
- (B) Local businesses enterprises;
- (C) Small business enterprises; and
- (D) Disadvantaged business enterprises;

(3) A description of the activities the government corporation engaged in, including the programs required by this part, in order to achieve the requirements set forth in this section; and

(4) A description of any changes the government corporation intends to make during the succeeding fiscal year to the activities it engages in to achieve the requirements set forth in this section.

(h) The Department shall monitor government corporation compliance with the reporting requirements of this section.

(i) The Department shall review the annual report of each government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the agency to achieve the requirements set forth in this section. The Department shall make recommendations on activities the government corporation should engage in to meet or exceed the requirements set forth in this section. The Department's recommendations shall be submitted to the government corporation, the Council, and the Commission.

(j) The Commission may review the annual report of a government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the government corporation to achieve the goals set forth in this section. The Commission may make recommendations concerning activities in which the government corporation should engage in to meet or exceed the requirements set forth in this section. The Commission's recommendations shall be submitted to the government corporation, the Council, and the Department.

#### Sec. 2351. Waiver of subcontracting requirements.

(a) The Director may waive the subcontracting requirements of sections 2346 and 2350 pursuant to this section.

(b) A contracting officer may request that the Director waive the subcontracting requirements for a particular contract by submitting to the Director with the request for waiver a statement of the reasons that justify a waiver.

(c) The Commission may find that a waiver of the subcontracting requirements of sections 2346 and 2350 for a particular contract are justified in order to achieve the purposes of this title.

(d)(1) The Director shall approve a waiver of the subcontracting requirements of section 2346 and 2350 requested by a contracting officer if the Director finds that no qualified business enterprises are available to satisfy the subcontracting requirements.

(2) The Director shall waive the subcontracting requirements of sections 2346 and

2350 if the Commission finds that a waiver is necessary to achieve the purposes of this title.

(e) In addition to a waiver granted pursuant to subsection (d) of this section, the Director may grant a waiver or modification of a subcontracting plan requested by the contracting officer if the Director finds that the applicant has made a good faith effort to meet the requirements of sections 2346 and 2350. In making a good faith determination, the Director shall consider the following factors:

(1) Whether the applicant conducted any pre-solicitation or pre-bid conferences to inform local, small, or disadvantaged business enterprises of contracting and subcontracting opportunities;

(2) Whether the applicant advertised in general circulation, trade association, and ethnic-focus media concerning the contracting and subcontracting opportunities;

(3) Whether the applicant provided written notice to a reasonable number of specific local, small, or disadvantaged business enterprises, in sufficient time to allow local, small, or disadvantaged business enterprises to participate effectively, that their interest in the contract was being solicited;

(4) Whether the applicant followed up initial solicitations of interest by conducting negotiations with local, small, or disadvantaged business enterprises;

(5) Whether rejections by the applicant of local, small, or disadvantaged business enterprises as being unqualified were based on sound reasoning and thorough investigation of their capabilities;

(6) Whether the applicant made efforts to assist interested local, small, or disadvantaged business enterprises in obtaining bonding, lines of credit, or insurance required by the applicant;

(7) Whether the applicant effectively used the services of the Commission in recruiting qualified and responsible local, small, or disadvantaged business enterprises;

(8) Whether bids submitted by local, small, or disadvantaged business enterprises were excessive or noncompetitive based upon a review of prevailing market conditions; and

(9) Any other factors which may be relevant in a particular case.

(f)(1) The contracting officer shall provide written notice of the waiver of the subcontracting requirements of sections 2346 and 2350 to the applicant prior to the acceptance of bids or proposals and upon approval of the waiver by the Director.

**Sec. 2352. Enforcement mechanism against an agency.**

If an agency fails to meet any of the goals set forth in section 2341, the Department may require that a portion of the agency's contracts and procurements be made part of a set-aside program for small business enterprises.

**Sec. 2353. Agency reporting requirements.**

(a) Beginning with the first full quarter after the effective date of this subtitle, each agency shall provide a quarterly report to the Department within 30 days after the end of each quarter. The

quarterly report shall include the following information:

(1) A list of each contract or procurement of the agency during the quarter, and, for each contract or procurement:

(A) The dollar amount of the contract or procurement;

(B) A description of the goods procured or the services contracted for;

(C) The name of the business enterprise from which the goods were procured or services contracted;

(D) Whether the business enterprise was a certified local, small, or disadvantaged business enterprise, and, if it was:

(i) The category or categories under which the business enterprise is certified; and

(ii) The identification number of the business enterprise assigned by the Department; and

(E) The source of funding for the contract or procurement (local, federal, other, or capital);

(2) The dollar percentage of the contracts and procurements awarded during the quarter which were awarded to:

(A) Local, small, and disadvantaged business enterprises;

(B) Local businesses enterprises;

(C) Small business enterprises; and

(D) Disadvantaged business enterprises; and

(3) The dollar volume of the contracts and procurements awarded during the quarter which were awarded to:

(A) Local, small, and disadvantaged business enterprises;

(B) Local businesses enterprises;

(C) Small business enterprises; and

(D) Disadvantaged business enterprises.

(b) Beginning with fiscal year 2006, each agency shall provide an annual report to the Department within 45 days after the end of each fiscal year. The annual report shall include:

(1) The information required to be included in the quarterly reports (with the dollar percentages and volumes calculated on an annual basis);

(2) The dollar volume and percentage of the contracts and procurements awarded during the fiscal year which were actually paid (including payments through subcontracting) to:

(A) Local, small, and disadvantaged business enterprises;

(B) Local businesses enterprises;

(C) Small business enterprises; and

(D) Disadvantaged business enterprises;

(3) A description of the activities the agency engaged in, including the programs required by this part, in order to achieve the goals set forth in section 2341; and

(4) A description of any changes the agency intends to make during the succeeding

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fiscal year to the activities it engages in to achieve the goals set forth in section 2341.

(c) The Department shall monitor agency compliance with the reporting requirements of this section.

(d) The Department shall review the annual report of each agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in section 2341. The Department shall make recommendations on activities the agency should engage in to meet or exceed the goals set forth in section 2341. The Department's recommendations shall be submitted to the agency, the Council, and the Commission.

(e) The Commission may review the annual report of an agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in section 2341. The Commission may make recommendations on activities the agency should engage in to meet or exceed the goals set forth in section 2341. The Commission's recommendations, if any, shall be submitted to the agency, the Council, and the Department.

Sec. 2354. Department reporting requirements.

Within 45 days of its receipt of the annual reports required by section 2352(b), the Department shall submit to the Council and the Commission a report containing the following documents and information:

(1) A chart containing the following information with respect to each agency for the prior fiscal year:

- (A) The expendable budget of the agency;
- (B) Each goal of the agency under section 2341 in dollar and percentage

terms;

(C) The agency's achievement with respect to each goal established by section 2341, which shall include the following information:

(i) The percentage of the expendable budget, the percentage of the total budget, and the dollar volume that was contracted or procured with the following:

- (I) Local business enterprises;
- (II) Small business enterprises; and
- (III) Disadvantaged business enterprises; and

(ii) The dollar volume and percentage of the contracts and procurements awarded during the quarter which were actually paid (including payments through subcontracting) to:

- (I) Local business enterprises;
  - (II) Small business enterprises; and
  - (III) Disadvantaged business enterprises; and
- (D) A list of each contract or procurement of the agency, including:
- (i) A description of the contract or procurement;
  - (ii) The dollar amount of the contract or procurement;

(iii) The name of the business enterprise from which the goods or services were contracted or procured;

(iv) Whether the business enterprise was a certified local, small, or disadvantaged business enterprise, and, if it was:

(I) The category or categories under which the business enterprise is certified; and

(II) The identification number of the business enterprise assigned by the Department; and

(v) The source of funding for the contract (local, federal, other, or capital); and

(2) A chart listing the following information with respect to each agency for the current fiscal year:

(A) The total budget of each agency;

(B) The expendable budget of each agency;

(C) A description of each funding source, object class, object, or item that was excluded from the total budget of the agency in the Department's calculation of the expendable budget of the agency; and

(D) Each goal of the agency under section 2341 in percentage and dollar terms.

#### Sec. 2355. Regional governmental entities.

(a) Except as provided in subsection (b) of this section, a regional governmental entity shall be exempt from the requirements of this subtitle to the extent that the requirements of this subtitle impact on the regional governmental entity's operations within the territory of a member government other than the District.

(b) The District of Columbia Water and Sewer Authority shall be exempt from the requirements of this subtitle to the extent that the requirements of this subtitle are contrary to procurement regulations promulgated pursuant to statutes establishing the District of Columbia Water and Sewer Authority.

#### Subpart 3. Certification.

##### Sec. 2361. Certificate of registration.

(a) No business enterprise shall be permitted to participate in a program established under this part unless the business enterprise:

(1) Has been issued a certificate of registration under the provisions of this subtitle;

or

(2) Has been issued a provisional certification under regulations issued pursuant to this subtitle.

(b)(1) An enterprise seeking to be certified as a local, small, or disadvantaged business enterprise, as a resident-owned business, as a resident business, or as a local business enterprise with



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its principal office located in an enterprise zone shall file with the Commission a written application on such form or forms as may be prescribed by the Commission or the Department.

(2) The application shall include, at a minimum, the following documents and information:

- (A) A certification of the correctness of the information provided;
- (B) Written evidence that the applicant is:
  - (i) A bona fide local business enterprise;
  - (ii) A bona fide disadvantaged business enterprise;
  - (iii) A bona fide small business enterprise;
  - (iv) A bona fide local business enterprise located in an enterprise zone;
  - (v) A bona fide resident-owned business; or
  - (vi) A bona fide resident business.

(C) Evidence of ability and character;

(D) Evidence of financial position, which may be the applicant's most recent financial statement. For the purposes of this subparagraph, the term "recent" means produced from current data no more than 90 days prior to the application date; and

(E) Any other information the Commission or Department may require.

(c) The Commission shall issue the applicant a certificate of registration if:

(1) The information provided in the application or additional filings is satisfactory to the Commission;

(2) The business enterprise meets the standards of this subtitle; and

(3) The applicant fulfills other requirements as may be established by the Commission or the Department.

(d) A certificate of registration shall expire 2 years from the date of approval of the application.

Sec. 2362. Provisional certification; self-certification prohibited.

(a) The Department may authorize a business enterprise to participate in a program established under this part without receiving a certificate of registration under section 2361; provided, that such authorization shall be granted only when:

(1) A business enterprise is applying for certification in order to bid on a contract or procurement for which responses are due within the next 45 days;

(2) The business enterprise has submitted a majority of the information required under section 2361; and

(3) The Department reasonably believes that the Commission will certify the business enterprise after the business enterprise has submitted all of the information required under this subtitle or regulations promulgated pursuant to this subtitle.

(b) An authorization granted under this section shall not last for more than 120 days.

(c) The Department shall make authorizations under subsection (a) of this section pursuant

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to rules promulgated pursuant to this subtitle.

(d) A business enterprise may not self-certify or self-authorize to participate in a program established under sections 2343 through 2349.

Sec. 2363. Revocation of registration; challenges to registration; penalties.

(a) The Commission may revoke or suspend the certificate of registration of a business enterprise that:

- (1) Engaged in fraud or deceit in obtaining the registration;
- (2) Furnished substantially inaccurate or incomplete ownership or financial information;
- (3) Failed to report changes that affect its eligibility for certification;
- (4) Acted with gross negligence, incompetence, financial irresponsibility, or misconduct in the practice of a trade or profession; or
- (5) Willfully violated any provision of this subtitle or rules adopted pursuant to this subtitle.

(b)(1) Any person may file with the Commission a complaint alleging a violation of this subtitle against an applicant for registration or a business enterprise registered pursuant to this subtitle. The complaint shall be in writing and sworn to by the complainant.

(2) The Commission may request that the Department investigate the facts and merits of the complaint.

(3) The Commission may, without a hearing, dismiss a complaint which it determines to be frivolous or otherwise without merit.

(4) If the Commission does not determine that a complaint is frivolous or otherwise without merit, it shall hold a hearing on the complaint within 3 months of the filing of the complaint. The Commission shall determine the time and place of the hearing. The Commission shall cause to be issued and served on the person or business enterprise alleged to have committed the violation, hereafter called the "respondent", a written notice of the hearing together with a copy of the complaint at least 30 days prior to the scheduled hearing. Notice shall be served by registered or certified mail, return receipt requested, or by personal service. At the hearing, the respondent shall have the right to appear personally or by a representative and to cross-examine witnesses and to present evidence and witnesses.

(5) If, after the conclusion of the hearing, the Commission determines that the respondent has violated the provisions of this subtitle or regulations issued pursuant to this subtitle, the Commission shall issue, and cause to be served on the respondent, a decision and order, accompanied by findings of fact and conclusions of law, revoking or suspending the respondent's registration, or taking any other action it deems appropriate.

(6) The Commission shall have the authority to issue subpoenas requiring the attendance of witnesses and to compel the production of records, papers, and other documents.

(c) In addition to the procedures and penalties provided in subsection (b) of this section, the Attorney General for the District of Columbia may bring a civil action in the Superior Court of the

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District of Columbia against a business enterprise and the directors, officers, or principals of a business enterprise that is reasonably believed to have obtained certification by fraud or deceit or to have willfully furnished substantially inaccurate or incomplete ownership information to the Commission. A business enterprise or individual found guilty under this subsection shall be subject to a civil penalty of not more than \$100,000.

(d) The Commission may at any time reissue a certificate of registration to any firm or joint venture whose certificate has been revoked; provided, that a majority of at least 4 members of the Commission vote in favor of reissuance. The Commission may consider whether the firm or joint venture should be required to submit satisfactory proof that conditions within the company that led to the violation have been corrected.

## Subpart 4. Triennial review and rulemaking.

## Sec. 2371. Triennial review of program and subtitle.

(a) Every 3 years following the effective date of this subtitle, the Department shall submit to the Council, the Mayor, and the Commission the results of an independent evaluation of the local, small, and disadvantaged business enterprise programs. This evaluation shall compare the costs of contracts awarded pursuant to this subtitle to the cost of contracts awarded without use of the set-asides and bid preferences authorized by this subtitle. This evaluation shall also compare economic outcomes such as revenue, tax payments, and employment of District residents for local, small, and disadvantaged business enterprises certified by the Commission to economic outcomes for similar firms that are not certified by the Commission.

(b) The Department and the Commission shall review the findings in the triennial report and the goals, intents, and purposes of this subtitle. The Department shall, and the Commission may, transmit to the Council and the Mayor a report setting forth any recommended amendments to this subtitle.

## Sec. 2372. Rulemaking authority.

The Mayor shall, pursuant to title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), issue proposed rules to implement this subtitle. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

## Part E. Conforming Amendments.

## Sec. 2381. Amendments.

(a) Section 10b(a) of the District of Columbia Regional Interstate Banking Act of 1985, effective November 23, 1985 (D.C. Law 6-63; D.C. Official Code § 26-711(c)), is amended by striking the phrase "District of Columbia Local Business Opportunity Commission in accordance with the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1998

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and inserting the phrase "Small and Local Business Opportunity Commission in accordance with the Small, Local, and Disadvantaged Business Enterprises Development and Assistance Act of 2005 (Subtitle N of title II of Bill 16-200)".

(b) Section 17a(a) of the District of Columbia Savings and Loan Acquisition Amendment Act of 1988, effective October 12, 1988, (D.C. Law 7-175; D.C. Official Code § 26-1217(a)), is amended by striking the phrase "District of Columbia Local Business Opportunity Commission in accordance with Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1998 and inserting the phrase "Small and Local Business Opportunity Commission in accordance with the Small, Local, and Disadvantaged Business Enterprises Development and Assistance Act of 2005 (Subtitle N of title II of Bill 16-200)".

(c) Section 47-351.11 of the District of Columbia Official Code is amended by striking the phrase "District of Columbia Local Business Opportunity Commission in accordance with subchapter IX of Chapter 2 of Title 2" and inserting the phrase "Small and Local Business Opportunity Commission in accordance with the Small, Local, and Disadvantaged Business Enterprises Development and Assistance Act of 2005 (Subtitle N of title II of Bill 16-200)".

Sec. 2382. Repealers.

(a) Sections 4, 5, and 13 of the Minority Contracting Act of 1976, effective March 29, 1977 (D.C. Law 1-95; D.C. Official Code §§ 2-215.03, 2-215.04, and 2-215.11), are repealed.

(b) The Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1998, effective April 27, 1999 (D.C. Law 12-268; D.C. Official Code § 2-217.01 *et seq.*), is repealed.

(c) An order, rule, or regulation in effect under a law repealed by this section shall remain in effect under the corresponding provision enacted by this subtitle until repealed, amended, or superseded.

Part F. Fiscal Impact.

Sec. 2391. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

TITLE III. PUBLIC SAFETY AND JUSTICE

SUBTITLE A. ESTABLISHMENT OF THE OFFICE OF THE CHIEF MEDICAL EXAMINER MANAGEMENT FUND

Sec. 3001. Short title.

This subtitle may be cited as the "Office of the Chief Medical Examiner Management Fund Amendment Act of 2005".

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Sec. 3002. The Establishment of the Office of the Chief Medical Examiner Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 5-1401 *et seq.*), is amended by adding a new section 2918a to read as follows:

"Sec. 2918a. Office of the Chief Medical Examiner Management Fund.

"(a) There is established a nonlapsing fund to be designated the Office of the Chief Medical Examiner Management Fund ("Fund"), which shall be a segregated account within the General Fund of the District of Columbia and shall be used for the purposes set forth in subsection (b) of this section.

"(b) The Fund shall be used exclusively for OCME personnel and non-personnel expenditures. Authorized expenditures include expenses associated with maintaining 2 full-time equivalents, additional full-time equivalent costs, employee training, purchasing medical and mortuary supplies, purchasing other supplies and materials, OCME emergencies, OCME operations, reagents, consumables, contract services, and equipment.

"(c) All fees received by OCME for services provided under this act, all interest earned on those fees, and any additional funds which Congress may appropriate to the Fund shall be deposited into the Fund. All funds deposited into the Fund shall not revert to the fund balance of the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section, subject to authorization by Congress.

"(d) Nothing in this section shall be construed to prohibit or limit the appropriation of additional funds from the revenues of the District for the purposes designated in subsection (b) of this section. All monies in the Fund shall be considered as supplementing and enhancing the operations of the OCME and are not intended to be used to supplant support for the OCME provided through the General Fund of the District of Columbia."

Sec. 3003. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### SUBTITLE B. LEGAL SERVICE AMENDMENT

Sec. 3011. Short title.

This subtitle may be cited as the "Legal Service Amendment Act of 2005".

Sec. 3012. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 851(3) (D.C. Official Code § 1-608.51(3)) is amended as follows:

(1) Subparagraph (B) is amended to read as follows:

"(B) Any attorney who is a Deputy Attorney General, Chief Deputy Attorney General, Special Deputy Attorney General, Senior Counsel to the Attorney General, General Counsel or the equivalent for any agency subordinate to the Mayor, or any other attorney in the Office of the Attorney General for the District of Columbia who routinely reports directly to the Attorney General,".

(2) Subparagraph (C) is amended to read as follows:

"(C) Any attorney who is a General Counsel employed by an independent agency, except attorneys employed by the Chief Financial Officer."

(b) Section 852 (D.C. Official Code § 1-608.52) is amended to read as follows:

"Sec. 852. There is established within the District government a Legal Service for independent and subordinate agencies to ensure that the law business of the District government is responsive to the needs, policies, and goals of the District and is of the highest quality. In order to improve the quality and timeliness of the legal services that support the lawful activities, objectives, and policies of the District government, all attorneys who perform work for subordinate agencies shall become employees of the Office of the Attorney General for the District of Columbia."

(c) Section 853 (D.C. Official Code § 1-608.53) is amended as follows:

(1) Subsections (a) through (d) are amended by striking the phrase "Attorney General" and inserting the phrase "Corporation Counsel" in its place wherever it appears.

(2) Subsection (e) is amended to read as follows:

"(e) A Senior Executive Attorney employed by the Office of the Attorney General who performs work primarily for any other subordinate agency, whether located at that agency or not, shall serve at the pleasure of the Attorney General, and the Attorney General shall consult with the agency head before making any decision concerning the termination of a Senior Executive Attorney who performs work primarily for the other subordinate agency. The Senior Executive Attorney shall serve at the pleasure of the agency head where the Attorney General has delegated direction and control over the attorney to the agency head pursuant to section 855."

(d) Section 854(a) (D.C. Official Code § 1-608.54(a)) is amended to read as follows:

"(a) Attorneys employed by the Office of the Attorney General shall be hired by the Attorney General. Attorneys, including Senior Executive Attorneys, employed by the Office of the Attorney General who perform work primarily for any other subordinate agency, whether located at that agency or not, shall be hired by the Attorney General after consultation with the head of the other subordinate agency."

(e) Section 855 (D.C. Official Code § 1-608.55) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Attorneys employed by the Office of the Attorney General, wherever located in the District government, including Senior Executive attorneys, shall act under the direction, supervision, and control of the Attorney General."

(2) Subsection (b) is amended to read as follows:

"(b) Notwithstanding the authority vested in the Attorney General by subsection (a) of this section, the Attorney General may delegate the direction, supervision and control of attorneys who

perform work primarily for any other subordinate agency, whether located at the agency or not, to the head of that agency as follows:

"(1) After consulting with the agency head, delegate in writing the direction, supervision and control of all or some of the attorneys who perform work primarily for the agency, including Senior Executive Attorneys. This delegation may be withdrawn at any time, in writing, after consulting with the agency head.

"(2) The delegation and its withdrawal, if any, pursuant to paragraph(1) of this subsection shall cite the reasons for the delegation or withdrawal of delegation using the following criteria:

"(A) Agency size;

"(B) Agency workload;

"(C) Necessity or lack of necessity for agency in-house counsel to engage in high level policy-making;

"(D) Agency head or agency General Counsel or the equivalent, expressed preferences;

"(E) Necessity or lack of necessity for Attorney General supervision;

"(F) Practicality or impracticality of Attorney General supervision;

"(G) Existence of a conflict of interest if the Attorney General supervises agency counsel; or

"(H) Any other relevant factor as identified by the Attorney General."

(3) Subsection (d) is amended to read as follows:

"(d) The Attorney General may:

"(1) After consulting with the affected subordinate agency head, assign an attorney employed by the Office of the Attorney General who previously performed work primarily for the Office of the Attorney General to perform work primarily for the affected subordinate agency, whether located at the agency or not, in the Attorney General's discretion; or

"(2) After consulting with the affected sending and receiving subordinate agency heads, assign an attorney employed by the Office of the Attorney General who previously performed work primarily for the sending agency, including the Office of the Attorney General, to perform work primarily for the receiving agency, whether located at the receiving agency or not in the Attorney General's discretion, unless the Attorney General has delegated the direction, supervision, and control of the attorney pursuant to subsection (b) of this section."

(f) Section 856 (b) (D.C. Official Code § 1-608.56(b)) is amended to read as follows:

"(b) The disciplinary action provided for in subsection (a) of this section shall be taken by:

"(1) The Attorney General when the attorney is employed by the Office of the Attorney General and performs work primarily for that Office, whether located in that Office or not;

"(2) The Attorney General, after consulting with the agency head, when the attorney is employed by the Office of the Attorney General and performs work primarily for any other subordinate agency, whether located at the other subordinate agency or not, and there has been no delegation of authority pursuant to section 855;

"(3) The agency head or the Senior Executive Attorney designee when the attorney is employed by an independent agency or by a subordinate agency and the Attorney General has delegated authority over the attorney to the subordinate agency head pursuant to section 855."

(g) Section 857 (D.C. Official Code § 1-608.57) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place wherever it appears.

(h) Section 861 (D.C. Official Code § 1-608.61) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

(i) Section 862 (D.C. Official Code § 1-608.62) is amended by adding a new paragraph (5) to read as follows:

"(5) Effective October 1, 2005, any attorney who was employed by any subordinate agency other than the Office of the Attorney General as of the effective date of the Legal Service Amendment Act of 2005 shall become an attorney employed by the Office of the Attorney General for the District of Columbia. By December 31, 2005, the Mayor shall complete the personnel paperwork necessary to reflect these appointments."

(j) New sections 863, 864, and 865 are added to read as follows:

"Sec. 863. Payment of compensation to former subordinate agency attorneys.

"Until the Legal Service budgets of the subordinate agencies are transferred to the budget of the Attorney General, the subordinate agencies that employed the attorneys who are transferred to the employment of the Office of the Attorney General pursuant to this act shall continue to be responsible for their compensation.

"Sec. 864. Transfers.

By October 1, 2005, all subordinate agencies, other than the Office of the Attorney General, shall transfer to that Office all attorney and support staff employees, personal property, full-time equivalent position authority, assets, records, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the furnishing of legal and other services by the attorneys who were employed by these agencies as of the effective date of the Legal Service Amendment Act of 2005.

"Sec. 865. Budgeting.

"(a) Notwithstanding any other law, during fiscal year 2006 the entire Legal Service budget for attorneys in the subordinate agencies, including personal services and non-personal services budgets associated with the pay and benefits of attorneys and their support staff, grants, as well as all related administrative overhead, supplies, materials, equipment and equipment rentals, and contractual services shall be under the management authority and control of the Attorney General.

"(b) Notwithstanding any other law, during fiscal year 2007 and each fiscal year thereafter, the entire Legal Service budget for attorneys in the subordinate agencies shall continue to be under the management authority and control of the Attorney General, to the extent those budgets have not yet been included in the budget of the Office of the Attorney General.

"(c) The Chief Financial Officer shall determine the exact budget amounts that are under the Attorney General's management authority in accordance with this section."



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Sec. 3016. Section 108 of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.08), is amended to read as follows:

"Sec. 108. Appointment and duties of General Counsel.

"(a) The Department shall have a General Counsel or the equivalent, appointed by the Attorney General as an employee of the Office of the Attorney General, after consultation with the Director of the Department. The General Counsel or the equivalent shall:

"(1) Be an attorney admitted to the practice of law in the District of Columbia and qualified by experience and training to advise the Department with respect to legal issues related to its powers and duties;

"(2) Be in the Senior Executive Attorney Service as an at-will employee under the direction and control of the Attorney General;

"(3) Be subject to all applicable provisions of Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code § 1-608.51 *et seq.*);

"(4) Have an attorney-client relationship with the Department;

"(5) Advocate vigorously for the Director's positions on legal issues, and if that advocacy poses a conflict with a legal position of the Attorney General for the District of Columbia, seek exemption from the Attorney General's supervision as to that position, in accordance with section 855(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code § 1-608.55(b)); and

"(6) Be subject to evaluation, discipline, and transfer by the Attorney General, after consultation with the Director.

"(b) This section shall apply as of October 1, 2005."

Sec. 3017. Conforming Amendment.

Paragraph 91A of section 8 of the An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 993; D.C. Official Code § 34-804(b)), is amended by striking the sentence "The People's Counsel shall be entitled to receive compensation at the maximum rate as may be established from time to time for GS-16 of the General Schedule under § 5332 of Title 5 of the United States Code or equivalent compensation pursuant to subchapter XI of Chapter 6 of Title 1." and inserting a new sentence in its place to read as follows: "The People's Counsel shall be entitled to receive compensation at the midpoint rate for Level III of the Senior Executive Attorney Service, pursuant to sections 853 and 858 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code §§ 1-608.53 and 1-608.58)."

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Sec. 3018. Section 501(k) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-605.01(k)), is amended by adding a new sentence at the end to read as follows: "The Executive Director and the attorneys shall be in the Legal Service as defined in Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code § 1-608.51 *et seq.*)".

Sec. 3019. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE C. THE DEPARTMENT OF CORRECTIONS REIMBURSEMENT FUND

Sec. 3031. Short title.

This subtitle may be cited as the "Department of Corrections Reimbursement Fund Act of 2005".

Sec. 3032. Department of Corrections Reimbursement Fund.

(a) There is established a nonlapsing fund to be designated as the Department of Corrections Reimbursement Fund ("Fund"), which shall be a segregated account within the General Fund of the District of Columbia and shall be used to support the activities prescribed by the Memorandum of Understanding, effective January 1, 2002, between the United States Marshals Service and the Department of Corrections ("Memorandum").

(b) All revenue derived from the reimbursement of the cost of services provided by the Department of Corrections pursuant to the Memorandum, and all fees collected for the department's housing, transporting, and handling of adult pretrial or sentenced felons, probation, parole, or supervision violators, and prisoners returning to the Superior Court of the District of Columbia on writ or subject to other commitment orders shall be deposited into the Fund.

(c) Funds deposited in the Fund shall not revert to the fund balance of the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this section, subject to authorization by Congress.

Sec. 3033. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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## TITLE IV. PUBLIC EDUCATION SYSTEM

## SUBTITLE A. EDUCATION LICENSURE COMMISSION

## Sec. 4001. Short title.

This subtitle may be cited as the "Education Licensure Commission Amendment Act of 2005".

Sec. 4002. The Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1301 *et seq.*), is amended as follows:

(a) Section 6(e) (D.C. Official Code § 38-1306(d)) is amended as follows:

(1) The existing text is designated as paragraph (1).

(2) A new paragraph (2) is added to read as follows:

"(2) All revenues collected by, and all payments made to, the Commission under this subsection shall be deposited in the Education Licensure Commission Site Evaluation Fund established by section 7a of the State Education Office Establishment Act of 2003, effective October 21, 2000 (D.C. Law 13-176; to be codified at D.C. Official Code § 38-2607)."

(b) Section 12a (D.C. Official Code § 38-1313) is amended as follows:

(1) The section heading is amended by striking the word "Educational" and inserting the word "Education" in its place.

(2) Subsection (a) is amended by striking the word "Educational" and inserting the word "Education" in its place.

(3) Subsection (b) is amended by striking the word "Educational" and inserting the word "Education" in its place.

Sec. 4003. The State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*), is amended as follows:

(a) Section 3(b)(6) (D.C. Official Code § 38-2602(b)(6)) is amended by striking the word "Educational" and inserting the word "Education" in its place.

(b) A new section 7a is added to read as follows:

"Sec. 7a. Education Licensure Commission Site Evaluation Fund.

"(a) There is established a nonlapsing fund to be designated as the Education Licensure Commission Site Evaluation Fund ("Fund"), which shall be a segregated account within the General Fund of the District of Columbia, administered by the State Education Office, and used for the purposes set forth in subsection (b) of this section.

"(b) The Fund shall be used only to cover costs associated with the Education Licensure Commission's review of institutions for licensing purposes under section 6 of the Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1306)("Act").

"(c) All revenues collected by the Education Licensure Commission for evaluations and observations done pursuant to section 6 of the Act shall be deposited into the Fund. All funds deposited into the Fund shall not revert to the fund balance of the General Fund of the District of

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Columbia at the end of any fiscal year or at anyother time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section, subject to authorization by Congress.”.

Sec. 4004. Conforming amendments.

(a) Section 602(a) of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 467; D.C. Official Code § 1-1106.02(a)), is amended by striking the phrase “Educational Institution Licensure Commission” and inserting the phrase “Education Licensure Commission” in its place.

(b) Subchapter One of Chapter Eighteen of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1280; D.C. Official Code § 29-601 *et seq.*), is amended as follows:

(1) Section 586b(a) (D.C. Official Code § 29-615(a)) is amended by striking the phrase “Educational Institution Licensure Commission” and inserting the phrase “Education Licensure Commission” in its place.

(2) Section 586c (D.C. Official Code § 29-616) is amended by striking the phrase “Educational Institution Licensure Commission” each time it appears and inserting the phrase “Education Licensure Commission” in its place.

(3) Section 586d (D.C. Official Code § 29-617) is amended by striking the phrase “Educational Institution Licensure Commission” each time it appears and inserting the phrase “Education Licensure Commission” in its place.

(4) Section 586e (D.C. Official Code § 29-618) is amended by striking the phrase “Educational Institution Licensure Commission” each time it appears and inserting the phrase “Education Licensure Commission” in its place.

Sec. 4005. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**SUBTITLE B. UNIFORM PER STUDENT FUNDING FORMULA FOR PUBLIC SCHOOLS AND PUBLIC CHARTER SCHOOLS**

Sec. 4011. Short title.

This subtitle may be cited as the “Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Amendment Act of 2005”.

Sec. 4012. The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools and Tax Conformity Clarification Amendment Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 *et seq.*), is amended as follows:

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(a) Section 104 (D.C. Official Code § 38-2903) is amended by striking the phrase "\$6,903.60 per student for FY 2005" and inserting the phrase "7,307.47 per student for FY 2006" in its place.

(b) Section 105 (D.C. Official Code § 38-2904) is amended to read as follows:

"The student counts at certain grade levels and in certain programs shall be weighted to provide an amount per student differing from the basic foundation level in accordance with the following schedule:

| Grade Level                   | Weighting | Per Pupil Allocation<br>FY 2006 |
|-------------------------------|-----------|---------------------------------|
| Pre-School / Pre Kindergarten | 1.17      | \$ 8,549.74                     |
| Kindergarten                  | 1.03      | \$ 7,526.69                     |
| Grades 1-3                    | 1.03      | \$ 7,526.69                     |
| Grades 4-5                    | 1.00      | \$ 7,307.47                     |
| Ungraded ES                   | 1.03      | \$ 7,526.69                     |
| Grades 6-8                    | 1.03      | \$ 7,526.69                     |
| Ungraded MS/JHS               | 1.03      | \$ 7,526.69                     |
| Grades 9-12                   | 1.17      | \$ 8,549.74                     |
| Ungraded SHS                  | 1.17      | \$ 8,549.74                     |
| Alternative                   | 1.30      | \$ 9,499.71                     |
| Special Education Schools     | 1.17      | \$ 8,549.74                     |
| Adult                         | 0.75      | \$ 5,480.60                     |

(c) Section 106(c) (D.C. Official Code § 38-2905(c)) is amended to read as follows:

"(c) These supplemental allocations shall be calculated by applying weightings to the foundation level as follows:  
Special Needs Add-ons:

| Level/Program              | Definition   | Weighting | Per Pupil<br>Supplemental FY<br>2006 |
|----------------------------|--|-----------|--------------------------------------|
| Level 1: Special Education | Eight (8) hours or less per week of specialized services   | 0.55      | \$4,019.11                           |
| Level 2: Special Education | More than 8 hours and less than or equal to 16 hours per school week of specialized services                                   | 0.85      | \$6,211.35                           |
| Level 3: Special Education | More than 16 hours and less than or equal to 24 hours per school week of specialized services                                  | 1.50      | \$10,961.21                          |
| Level 4: Special Education | More than 24 hours per week which may include instruction in a self-contained separate school other than residential placement | 2.70      | \$19,730.17                          |
| LEP/NEP                    | Limited and non-English proficient students  | 0.40      | \$2,922.99                           |

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| Summer      | An accelerated instructional program in the summer for students who do not meet literacy standards pursuant to promotion policies of the District of Columbia Public Schools and public charter schools | 0.17 | \$1,242.27  |
| Residential | D.C. Public School or public charter school that provides students with room and board in a residential setting, in addition to their instructional program   | 1.70 | \$12,422.70 |

Residential Add-ons:

| Level/Program                            | Definition   | Weighting | Per Pupil Supplemental FY 2006 |
|--|--|-----------|--------------------------------|
| Level 1: Special Education - Residential | Additional funding to support the after-hours level 1 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting  | 0.374     | \$2,732.99                     |
| Level 2: Special Education - Residential | Additional funding to support the after-hours level 2 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting  | 1.360     | \$9,938.16                     |
| Level 3: Special Education - Residential | Additional funding to support the after-hours level 3 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting  | 2.941     | \$21,491.27                    |
| Level 4: Special Education - Residential | Additional funding to support the after-hours level 4 special instructional needs of limited and non-English proficient students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting | 2.924     | \$20,805.84                    |

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|  |   |      |             |
|--|---|------|-------------|
| Level 5: Special Education - Residential | Residential placement   | 9.40 | \$68,690.22 |
| LEP/NEP - Residential                    | Additional funding to support the after-hours Limited and non-English proficiency needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting | 0.68 | \$4,969.08  |

(d) Section 107(b)(3) (D.C. Official Code § 38-2906(b)(3)) is repealed.

(e) Section 107b(b) (to be codified at D.C. Official Code § 38-2906.02(b)) is amended to read as follows:

“(b) Each payment shall be one-fourth of each public charter school’s entitlement, determined as follows:

“(1) The basis of the July 15 payment to a public charter school shall be the estimate used in the June 30 quarterly report submitted by the eligible chartering authorities pursuant to section 2402(a) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 257; D.C. Official Code § 38-1804.02(a)), of the number of students that will be enrolled at that public charter school on October 5;

“(2) The basis of the October 25 and January 15 payments shall be the unaudited numbers for that school contained in the reports submitted by the eligible chartering authorities on October 5; and

“(3) The basis of the April 15 payment shall be the audited October enrollment numbers; provided, that these amounts shall be adjusted in accordance with the provisions of section 106.”.

Sec. 4013. Section 2204(c)(11)(B)(ix) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-121; D.C. Official Code § 38-1802.04(11)(B)(ix)), is amended to read as follows:

“(ix) For the fiscal year 2005 annual financial audit and subsequent fiscal year annual financial audits, a financial statement audited by an independent certified public accountant or accounting firm, who, notwithstanding any other provision of this act, shall be selected from an approved list developed by a committee of 2 representatives each from the District of Columbia Public Charter School Board, the District of Columbia Board of Education Charter School Board, and the District of Columbia Chief Financial Officer, in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States, pursuant to the April 8, 2005 memorandum of understanding between the District of Columbia Chartering Authorities and the District of Columbia Chief Financial Officer, as amended;”.

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Sec. 4014. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## SUBTITLE C. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS

Sec. 4021. Short title.

This subtitle may be cited as the "Preservation of School-Based Staff Positions Amendment Act of 2005".

Sec. 4022. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321 [226]; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(a) Section 2756 (D.C. Official Code § 38-1807.56) is repealed.

(b) A new section 2757 is added to read as follows:

"Sec. 2757. Preservation of school-based staff positions.

"(a) *Findings.* – The Council of the District of Columbia finds that:

"(1) In Fiscal Year 2006, the District of Columbia Public Schools ("DCPS") will receive a core budget of \$779,309,000 with additional funding in the amount of \$21 million for the Superintendent's school reform initiatives.

"(2) Despite an overall increase in funding for DCPS, local schools have been forced to develop plans to reduce their workforces because the 3.07% increase in the uniform per student funding formula does not cover the average step increase of 4.77% included in collective bargaining agreements approved by the Mayor and Council.

"(3) The Council believes that these reductions, which would come one year following the elimination of 500 school-based positions, are unacceptable and, if implemented, would be injurious to the DCPS.

"(4) As a result, there is a need to avert layoffs of more than 300 staff at individual schools.

"(5) DCPS should absorb the cost of the step increases from non-local school budget funds.

"(b) *Restrictions on reductions of school-based employees.* – To the extent that a reduction in the number of full-time equivalent positions for the District of Columbia public schools is required to remain within the budget established for the public schools in appropriations acts, no reductions shall be made from the full-time equivalent positions for school-based teachers, principals, counselors, librarians, or other school-based educational positions that were established as of the end of Fiscal Year 2005, unless the Board of Education makes a determination based on student enrollment that:

"(1) Fewer school-based positions are needed to maintain established pupil-to-staff ratios; or



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“(2) Reductions in positions for other than school-based employees are not practicable.

“(c) *Definition.* – The term “school-based educational position” means a position located at a District of Columbia public school or other position providing direct support to students at such a school, including a position for a clerical, stenographic, or secretarial employee, but not including any part-time educational aide position.”.

Sec. 4023. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE D. FISCAL YEAR 2006 EDUCATIONAL INVESTMENTS FUND FOR DISTRICT OF COLUMBIA PUBLIC SCHOOLS AND PUBLIC CHARTER SCHOOLS SPENDING PLAN REQUIREMENT

Sec. 4031. Short title.

This subtitle may be cited as the “Fiscal Year 2006 Educational Investments Fund for District of Columbia Public Schools and Public Charter Schools Establishment Act of 2005”.

Sec. 4032. Fiscal Year 2006 Educational Investments Fund for District of Columbia Public Schools and Public Charter Schools.

There is established a Fiscal Year 2006 Educational Investments Fund for District of Columbia Public Schools and Public Charter Schools (“Fund”), into which shall be deposited \$25.2 million in Fiscal Year 2006, of which \$21 million and \$4.2 million shall be allocated in Fiscal Year 2006 to the District of Columbia Public Schools and public charter schools, respectively, to conduct activities leading to increased student achievement and improved school performance, including comprehensive reading and math programs, parent and family resource centers, comprehensive art and music programs, the Summer Bridge Program, and a textbook management system. No funds from the Fund shall be made available for expenditure unless, by no later December 31, 2005, the Superintendent, the District of Columbia Public Charter School Board, and the District of Columbia Board of Education Charter School Board submit to the Mayor detailed plans which describe specific initiatives or activities that will be implemented during Fiscal Year 2006, and include budget and performance goals and measures for each identified initiative or activity.

Sec. 4033. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## SUBTITLE E. SCHOOLS MODERNIZATION FUND

## Sec. 4041. Short title.

This subtitle may be cited as the "Schools Modernization Amendment Act of 2005".

## Part A

## Sec. 4042. Schools Modernization Fund.

(a) There is established a dedicated fund within the General Fund of the District of Columbia, as a separate budget line item, to be known as the Schools Modernization Fund. The fund shall be a revolving, nonlapsing fund, which shall consist of the following distinct accounts:

(1) The Debt Service account, the funds of which shall be solely used to pay the debt service on revenue bonds issued in accordance with this act, and which shall be funded through:

- (A) Local funds;
- (B) Federal funds;
- (C) Federal grant funds;
- (D) Any grants, gifts, or subsidies from public or private sources for the repair or renovation of District schools;
- (E) Any return on investment of the assets of the Debt Service account, including interest thereon; and

(F) Such other funds as may be authorized to be deposited; and

(2) The Bond Revenue account, the funds of which shall be solely used to pay for the repair or renovation of District schools.

(b) Funds deposited in the Schools Modernization Fund shall not revert to the fund balance of the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this section, subject to authorization by Congress.

## Sec. 4043. Budget submission requirements.

(a) The Mayor shall submit to the Council, as part of the annual budget, a requested appropriation of local funds for the Schools Modernization Fund, including a description of estimated expenditures.

(b) The appropriation of local funds to, or the existence of retained funds in, the Schools Modernization Fund shall not replace local funding that otherwise would be directed to the capital budget for the District of Columbia Public Schools.

## Sec. 4044. Bond authorization.

(a) Pursuant to section 490 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official Code § 1-204.90), the Mayor is authorized to issue bonds to assist in financing, refinancing, or reimbursing costs of undertakings by the District to accomplish the purposes of this subtitle.

(b) The Mayor shall submit and the Council shall approve, by resolution, the amount of bonds that shall be issued at any time for a project authorized by subsection (a) of this section that meets the criteria set forth in section 4045. Each approval resolution shall state the aggregate principal amount of the bonds to be issued, and shall be accompanied by a description of each project showing its adherence to the criteria set forth in section 4045.

Sec. 4045. Criteria for use of bond revenue by District of Columbia Public Schools.

(a) To receive funds from the Bond Revenue account of the Schools Modernization Fund, the District of Columbia Public Schools ("DCPS") shall:

(1) Develop a new Master Facilities Plan pursuant to section 1104 of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803), that incorporates the findings and goals of the master education plan developed by the Superintendent.

(2) Consolidate facilities and dispose of underused buildings in accordance with the Master Facilities Plan developed under subsection (a) of this section, and applicable law; and

(3) Submit to the Mayor and Council a proposed expenditure plan developed in consideration of city-wide capital efforts and approved by the Board of Education which shall include:

(A) The specific repair or renovation for which the requested funds shall be used;

(B) An explanation as to why these additional funds, which are available over and above funds appropriated for capital investment in schools, are necessary;

(C) An analysis as to how the specific project fits into the Master Facilities Plan developed under subsection (a) of this section and DCPS' strategic objectives for school modernization;

(D) An analysis of any new program capacity to be created, including the student population to be served, how it fits into the master education plan developed by the Superintendent, and any anticipated savings resulting from providing programs within DCPS facilities instead of out-of-state;

(E) A declaration that no funds from the Bond Revenue account are intended for expenditure on a facility set for disposition; and

(F) A time table for completion of the proposed repair or renovation.

(b) Priority in funding shall be given to projects that:

(1) Locate new out-of-District special education programs within DCPS facilities;

(2) Create additional capacity for vocational education programs within DCPS facilities;

(3) Co-locate public charter schools within DCPS facilities; or

(4) Develop mixed-use facilities in collaboration with the District of Columbia Public Library, the Department of Parks and Recreations, or other appropriate District agencies.

Sec. 4046. Annual report; review of funding priorities.

(a) The Superintendent shall submit to the Council, the Mayor, and the Board of Education, an annual report containing the following information:

(1) A summary of any real estate portfolio review and business plan studies for potential partnership development completed by the Superintendent;

(2) The number of projects developed by the Superintendent;

(3) The number of projects financed by the Schools Modernization Fund that:

(A) Created additional capacity within the District of Columbia Public Schools for special education students or programs;

(B) Created additional capacity for vocational education programs;

(C) Created a co-location arrangement with a public charter school; or

(D) Developed a shared-use facility or site between the District of Columbia Public Schools and another District agency.

(b) The Superintendent shall review the priorities for use of revenue from the Schools Modernization Fund specified in section 4045 every 5 years and make recommendations to the Mayor, the Council, and the Board of Education on their continued validity or propose new priorities.

#### Part B

Sec. 4047. Section 1104 of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803), is amended as follows:

(a) Strike the phrase "December 31, 1998" and insert the phrase "June 30, 2006" in its place.

(b) Strike the phrase "There shall be a moratorium on disposition decisions until the facilities plan has been approved by the Council."

Sec. 4048. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### SUBTITLE F. POLICIES FOR 3<sup>RD</sup> AND 8<sup>TH</sup> GRADE STUDENTS

Sec. 4051. Short title.

This subtitle may be cited as the "Educational Policies for 3<sup>rd</sup> and 8<sup>th</sup> Grade Students Act of 2005".

Sec. 4052. Policies for 3<sup>rd</sup> and 8<sup>th</sup> grade students.

The Council requests that the Board of Education and the Superintendent establish policies to ensure that:

(1) All 3<sup>rd</sup> grade students are able to read independently and understand the fundamentals of mathematics upon being promoted to the 4<sup>th</sup> grade; and

(2) All 8<sup>th</sup> grade students are able to read at or above grade level and are exposed to pre-algebra concepts in preparation for high school.

Sec. 4053. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

TITLE V. HUMAN SUPPORT SERVICES

SUBTITLE A. HEALTH CARE AND CHILD DEVELOPMENT FACILITIES

LICENSOR FEES

Sec. 5001. Short title.

This subtitle may be cited as the "Health Care and Child Development Facilities Licensor Fees Amendment Act of 2005".

Sec. 5002. Section 5(j) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensor Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-504(j)), is amended by striking the phrase "rules shall be submitted" and inserting the phrase "rules, except those rules that establish or modify license fees as described in subsection (a) of this section, shall be submitted" in its place.

Sec. 5003. Section 47-2842(c) of the District of Columbia Official Code is repealed.

Sec. 5004. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE B. CLINICAL LABORATORY

Sec. 5011. Short title.

This subtitle may be cited as the "Clinical Laboratory Amendment Act of 2005".

Sec. 5012. The Clinical Laboratory Act of 1988, effective March 16, 1989 (D.C. Law 7-182; D.C. Official Code § 44-201 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 44-201) is amended as follows:

(1) Paragraph (1) is repealed.

(2) Paragraph (3) is amended to read as follows:

"(3) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological or other examination of materials derived from the human body for the purpose of providing

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information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. Such examination also includes one or more procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the human body. The term "clinical laboratory" shall include all independent, hospital, physician-operated, health-care, and District of Columbia government laboratories."

(3) Paragraph (4) is repealed.

(4) Paragraph (5) is amended to read as follows:

"(5) "Cytotechnologist" means a person who meets qualifications for a cytotechnologist under 42 CFR § 493.1483."

(5) Paragraph (6) is repealed.

(6) A new paragraph (6A) is added to read as follows:

"(6A) "Highly complex test" means a laboratory test that requires sophisticated techniques, interpretations of multiple signals, or proven technical skill. Highly complex tests may require:

"(A) Highly skilled physical manipulation;

"(B) Technique dependent steps in the testing, sampling, or reading of results;

"(C) User Programming of a device;

"(D) Detailed calculation of the results;

"(E) Dilution of samples with chemically reactive substances; or

"(F) Preparation of reagents."

(7) Paragraph (7) is amended to read as follows:

"(7) "Laboratory director" means the person responsible for administration of the technical and scientific operation of a clinical laboratory, including supervision of procedures and reporting findings of tests."

(8) A new paragraph (8A) is added to read as follows:

"(8A) "Moderately complex test" means a laboratory test that requires a series of steps, reagents, additions, or instrumentation, the result of which is determined by a visual signal."

(9) Paragraph (9) is repealed.

(10) Paragraph (11) is repealed.

(11) New paragraphs (13), 14, and (15) are added to read as follows

"(13) "Testing event" means a specific evaluation or set of evaluations offered or performed by a laboratory to test accuracy as part of required proficiency testing.

"(14) "Testing personnel" means an individual employed or otherwise engaged by a clinical laboratory to perform clinical laboratory tests or examinations.

"(15) "Waived test" means a test that is non-instrumental in nature, the result of which is determined by a visual signal.

(b) Section 3 (D.C. Official Code § 44-202) is amended as follows:

(1) Subsection (a) is amended by striking the last sentence.

(2) A new subsection (a-1) is added to read as follows:

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"(a-1) Except as provided in subsection (c) of this section, it shall be unlawful to engage in any of the following activities unless licensed to engage in that activity by the Mayor, whether the activity is public or private, for profit or not for profit:

"(1) Performing or offering to perform clinical laboratory tests or examinations in the District of Columbia; or

"(2) Performing or offering to perform clinical laboratory tests or examinations on specimens acquired in the District of Columbia, regardless of the location of the clinical laboratory at which the tests or examinations are performed."

(3) Subsection (b)(4) is repealed.

(4) Subsection (c) is amended by striking the phrase "6 months" and inserting the phrase "one year" in its place.

(5) Subsection (g) is amended by striking the phrase "one year" and inserting the phrase "2 years" in its place.

(c) Section 4 (D.C. Official Code § 44-203) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "a person shall meet:" and inserting the phrase "a person shall meet the applicable qualifications as specified in rules issued pursuant to section 14 and shall:" in its place.

(2) Subsection (d) is amended to read as follows:

"(d) The laboratory director shall be accessible to the laboratory to provide onsite, telephone, or electronic consultation, as needed. If the laboratory director cannot be accessible on a short-term basis for a period of time to be determined by the Mayor, the laboratory director shall designate, in writing, a substitute laboratory director who is qualified to be director in accordance with rules issued pursuant to section 14."

(3) Subsection (e) is amended by striking the number "2" and inserting the number "5" in its place.

(d) Section 5 (D.C. Official Code § 44-204) is amended to read as follows:

"(a) A clinical laboratory performing only waived tests shall employ testing personnel who meet the qualifications set out in rules issued pursuant to section 14.

"(b)(1) A clinical laboratory performing moderately complex tests shall employ a laboratory director, a technical consultant, a clinical consultant, and testing personnel. A person may function in more than one of these capacities if he or she meets the qualifications specified in this act and in rules issued pursuant to section 14.

"(2) The laboratory director, technical consultant, clinical consultant, and testing personnel shall meet the qualifications as specified in rules issued pursuant to section 14.

"(c)(1) A clinical laboratory performing highly complex tests shall employ a laboratory director, a general supervisor, a technical supervisor, a clinical consultant, and testing personnel. A person may function in more than one of these capacities if he or she meets the qualifications specified in this act and in rules issued pursuant to section 14.

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"(2) The laboratory director, general supervisor, technical supervisor, clinical consultant, and testing personnel shall meet qualifications as specified in rules issued pursuant to section 14.

"(3) In addition to the requirements set forth in paragraph (1) of this subsection, a clinical laboratory that performs highly complex tests in the subspecialty of cytology shall employ a cytology general supervisor, a cytology technical supervisor, and a cytotechnologist. A person may function in more than one of these capacities if he or she meets the qualifications specified in this act and in rules issued pursuant to section 14."

(e) Section 6 (D.C. Official Code §§ 44-205) is repealed.

(f) Section 7(a)(1) and (2) (D.C. Official Code § 44-206(a)(1) and (2)) are amended to read as follows:

"(1) Classifying laboratory tests as waived, moderately complex, or highly complex for the purposes of this act;

"(2) Developing additional requirements or limitations for clinical laboratories;"

(g) Section 8 (D.C. Official Code § 44-207) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) The Mayor shall conduct inspections of clinical laboratories licensed to perform moderately complex and highly complex tests, including inspections of their methods, procedures, materials, staff, and equipment and may conduct inspections of clinical laboratories licensed to perform only waived tests."

(2) Subsection (b) is amended by striking the phrase "and each Level III physician office laboratory".

(h) Section 10 (D.C. Official Code § 44-209) is amended as follows:

(1) Strike the phrase "or physician office" wherever it appears.

(2) Subsection (b) is amended to read as follows:

"(b) A proficiency testing program shall include at least 3 proficiency testing events per year, performed at approximately equal intervals. Each testing event shall include at least 5 samples. Proficiency testing shall be conducted for each category of tests for which the clinical laboratory has obtained a license. If there is no sample available for evaluation during a testing event for a particular category of laboratory tests, the clinical laboratory must devise a system for self-evaluation of this category of tests. The system for self-evaluation shall be approved by the Mayor and performed at least twice per year."

(i) Section 11(1) (D.C. Official Code § 44-210(1)) is amended to read as follows:

"(1) Limit the number of slides a cytotechnologist may examine to no more than 100 in a 24-hour period, irrespective of the site or clinical laboratory;"

(j) Section 12(b)(1) (D.C. Official Code § 44-211(b)(1)) is amended by striking the phrase "or physician office".

(k) Section 13 (D.C. Official Code § 44-212) is amended as follows:

(1) Strike the phrase "or physician office" wherever it appears.



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(2) Subsection (c)(1) is amended by striking the phrase "any laboratory" and inserting the phrase "and clinical laboratory" in its place.

Sec. 5013. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE C. BOARD OF MEDICINE AMENDMENT

Sec. 5021. Short title.

This subtitle may be cited as the "Board of Medicine Amendment Act of 2005".

Sec. 5022. Section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase "Commissioner of Public Health" and inserting the phrase "Director of the Department of Health, or his or her designee" in its place.

(2) Paragraph (5) is amended as follows:

(A) Strike the phrase "Commission of Public Health" and insert the phrase "Director of the Department of Health" in its place.

(B) Strike the phrase "as Commissioner" and insert the phrase "as Director" in its place.

(b) Subsection (b)(3) is amended by striking the phrase "Commissioner of Public Health" and inserting the phrase "Director of the Department of Health" in its place.

(c) Subsection (d) is amended by striking the phrase "Commissioner of Public Health" and inserting the phrase "Director of the Department of Health" in its place.

(d) Subsection (e) is amended by striking the phrase "Commissioner of Public Health or the Director of the Department of Health, or to their designees" and inserting the phrase "Director of the Department of Health, or his or her designee" in its place.

Sec. 5023. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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## SUBTITLE D. CHILD SUPPORT PASS-THROUGH ESTABLISHMENT

## Sec. 5031. Short title.

This subtitle may be cited as the "Child Support Pass-Through Establishment Amendment Act of 2005".

Sec. 5032. The District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*), is amended as follows:

(a) Section 511(a) (D.C. Official Code § 4-205.11(a)) is amended as follows:

(1) Paragraph (5A) is amended by striking the word "and" at the end.

(2) Paragraph (6)(D) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(3) A new paragraph (8) is added to read as follows:

"(8) Beginning on October 1, 2005, disregard up to the first \$150 received per month by the assistance unit that represents a current monthly child support obligation or a voluntary child support payment from an absent parent or spouse."

(b) Section 519(c) (D.C. Official Code § 4-205.19(c)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "paragraph (4)" and inserting the phrase "paragraphs (4) and (5)" in its place.

(2) Paragraph (3) is amended by striking the word "and" at the end.

(3) Paragraph (4)(B) is amended by striking the phrase "2000." and inserting the phrase "2000; and" in its place.

(4) A new paragraph (5) is added to read as follows:

"(5) Beginning on October 1, 2005, shall not apply to up to the first \$150 received each month by the assistance unit that represents a current monthly child support obligation or a voluntary child support payment from an absent parent or spouse."

## Sec. 5033. Applicability.

This subtitle shall apply as of April 1, 2006.

## Sec. 5034. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## SUBTITLE E. CHOICE IN DRUG TREATMENT SERVICES

## Sec. 5041. Short title.

This subtitle may be cited as the "Choice in Drug Treatment Amendment Act of 2005".

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## Sec. 5042. Provider certification and contracting.

The Choice in Drug Treatment Act of 2000, effective July 18, 2000 (D.C. Law 13-146; D.C. Official Code § 7-3001 *et seq.*), is amended by adding a new section 6a to read as follows:

## “Sec. 6a. Certification and participation by treatment providers.

“To improve access to substance abuse rehabilitation and aftercare for persons needing addiction treatment services, the Director of the Department of Health (“Director”) is authorized to exercise procurement authority to carry out the purposes of this act independent of the Office of Contracting and Procurement. The Director may enter into provider agreements or other agreements only with providers certified under Chapter 23 of Title 29 of the District of Columbia Municipal Regulations. It shall no longer be necessary for providers to be certified under Chapter 24 of Title 29 of the District of Columbia Municipal Regulations in order to be eligible to provide services under the Choice in Drug Treatment Program. The Director shall exercise this authority consistent with the Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), except with regard to the powers and duties outlined in section 105(a), (b), (c), and (e) of that act.”.

## Sec. 5043. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## SUBTITLE F. HEALTH REGULATION AND OCCUPATIONS FEES

## Sec. 5051. Short title.

This subtitle may be cited as the “Department of Health Functions Clarification Amendment Act of 2005”.

Sec. 5052. The Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 *et seq.*), is amended by adding a new section 4904a to read as follows:

## “Sec. 4904a. Deposit of fees.

“(a) Beginning with fiscal year 2007, the Mayor shall ensure that all fees and fines received from enforcement and regulation of the activities described in section 4902 shall be deposited in the Regulatory Enforcement Fund as required by section 4902(c).

“(b) Beginning with fiscal year 2007, the Mayor shall ensure that all licensing fees, civil fines, and interest relating to the practice of health occupations in the District shall be deposited in the Health Occupations Regulations Fund as required by section 4903.”.

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Sec. 5053. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE G. SCHOOL BASED HEALTH

Sec. 5061. Short title.

This title may be cited as the "School Based Health Plan Act of 2005".

Sec. 5062. Maternal and Family Health Administration plan.

The Maternal and Family Health Administration in the Department of Health shall provide to the Council by October 1, 2005, a plan, and proposed legislation, if needed, for supplying Medicaid eligible services to children enrolled in District of Columbia public and charter schools.

Sec. 5063. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE H. ACCESSRx AMENDMENT ACT

Sec. 5071. Short title.

This subtitle may be cited as the "AccessRx Amendment Act of 2005".

Sec. 5072. AccessRx Pharmaceutical Resource Center.

Title 1 of the AccessRx Act of 2004, effective May 18, 2004 (D.C. Law 15-164; D.C. Official § 48-831.01 *et seq.*), is amended by adding a new subtitle D to read as follows:

"SUBTITLE D. ACCESSRx PHARMACEUTICAL RESOURCE CENTER.

"Sec. 141. Establishment of AccessRx Pharmaceutical Resource Center.

"The Department shall conduct a program to provide life saving prescription and nonprescription medications and medical supplies by enrolling eligible individuals into pharmaceutical assistance programs. Of the funds appropriated for the Department of Health for fiscal year 2006, the Director shall enter into a contract with the Archdiocesan Health Care Network, Catholic Charities in the amount of \$1.956 million to operate and administer the program and provide sufficient personnel to ensure appropriate oversight of the program.

"Sec. 142. Eligibility.

"(a) To be eligible, an individual shall:

"(1) Be a resident of the District;

"(2) Have a household income not exceeding 300% of the federal poverty level; and

"(3) Lack prescription coverage.

"(b) Eligibility shall be determined by the contract organization administering the program.

"(c) "Eligibility for District Medicaid, DC Healthcare Alliance, and other public programs shall be screened at the time an individual seeks to enroll in the program, and appropriate referrals shall be made to the Income Maintenance Administration in the Department of Human Services."

Sec. 5073. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### SUBTITLE I. HEALTH REPORTING REQUIREMENTS

Sec. 5081. Short title.

This subtitle may be cited as the "Health Reporting Requirements Act of 2005".

Sec. 5082. HIV/AIDS Administration report.

The HIV/AIDS Administration in the Department of Health shall provide to the Council by October 1, 2005, a report on its efforts to ensure that its private community services providers who are treating individuals enrolled in the Medicaid program are billing appropriate costs to Medicaid rather than using Ryan White funds.

Sec. 5083. Primary Care and Prevention Administration Spring Valley health study report.

The Primary Care and Prevention Administration in the Department of Health shall provide to the Council by October 1, 2005, a report on the status of the \$250,000 authorized in the Fiscal Year 2005 Operating Cash Reserve Allocation Temporary Act of 2005, effective June 17, 2005 (D.C. Law 16-6; 52 DCR 4145), to conduct an analysis of the health of the residents and former residents of the area in the District known as Spring Valley where munitions testing occurred.

Sec. 5084. Health Care Regulation and Licensing Administration long-term care report.

The Health Care Regulation and Licensing Administration in the Department of Health shall provide to the Council by October 1, 2005, a report on the number of District residents in long-term care facilities located outside of the District of Columbia and the amount paid monthly and annually by the District for these residents.

Sec. 5085. The Policy, Planning, and Research Administration State Health Plan report.

The Policy, Planning, and Research Administration in the Department of Health shall provide to the Council by October 1, 2005, a report on the status of the proposed updated District State Health Plan.

Sec. 5086. Medical Assistance Administration expanded coverage report.

By October 1, 2005, the Medical Assistance Administration in the Department of Health shall provide to the Council a report on its efforts to use State Children's Health Insurance Program ("SCHIP") funds to expand eligibility for health services provided by DC Healthy Families to District residents who are 18 years of age or less and whose total gross household income exceeds 200%, but not 250% of the Federal Poverty Guidelines. The report shall include:

- (1) The number of children who could be served by the program with the available funds;
- (2) The number of children who would be eligible under the proposed eligibility income guidelines;
- (3) The total cost of covering all of the eligible children;
- (4) The number of undocumented children who would be eligible under the proposed eligibility guidelines and the cost of providing coverage for them; and
- (5) A draft Medicaid State Plan Amendment to the District SCHIP program that would authorize the coverage.

Sec. 5087. Department of Health Office of Administrative Hearings Report.

The Department of Health shall provide to the Council by October 1, 2005, a report on its effort to enter into a written agreement with the Office of Administrative Hearings regarding the distribution of fines collected by the Office of Administrative Hearings from cases referred by the Department of Health.

Sec. 5088. Department of Health and Mental Health full-time employee status report.

(a) The Department of Health shall provide a report to the Council by October 1, 2005, on the status of its effort to:

- (1) Convert term employees to full-time employee status; and
- (2) Offer training for employees, including the budget for training expenditures for each bureau or program within each administration of the Department.

(b) The Department of Mental Health shall provide a report to the Council by October 1, 2005, on the status of its effort to:

- (1) Convert term employees to full-time employee status; and
- (2) Offer training for employees, including the budget for training expenditures for each bureau or program within each administration of the Department.

Sec. 5089. Mental Health Service providers report.

The Department of Mental Health shall provide to the Council by October 1, 2005, a report on its effort to ensure that its private community services providers who are treating individuals enrolled in the Medicaid program are billing appropriate costs to Medicaid providers rather than using local funds.

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Sec. 5090. Department of Health and Mental Health lease report.

(a) The Agency Management Program in the Department of Health shall provide to the Council by October 1, 2005, a report on all leases or tenancies for properties occupied by the Department during the fiscal years 2005 and 2006. The report shall include for each property:

- (1) The accurate street address of the property;
  - (2) The names of all owners during the term of the occupancy;
  - (3) The number of square feet occupied by the Department, or if the total square footage is occupied by more than one agency, the total square feet and the percentage occupied by the Department;
  - (4) The gross rent per square foot for each of fiscal years 2005 and 2006;
  - (5) The date the lease commenced and the date it expired or will expire, and if it has expired what the current tenancy status is;
  - (6) The rent schedule for the life of the lease and if the lease term has been exceeded, the rent for each year after the expiration date;
  - (7) Services included in the rent;
  - (8) Services specifically not included in the rent that the District is required to provide and the cost of each service;
  - (9) The assessed value of the property during each of fiscal years 2005 and 2006;
- and
- (10) The name of the individual who negotiated the lease on behalf of the District.

(b) The Agency Management Program in the Department of Mental Health shall provide to the Council by October 1, 2005, a report on all leases or tenancies for properties occupied by the Department during the fiscal years 2005 and 2006. The report shall include for each one:

- (1) The accurate street address of the property;
  - (2) The names of all owners during the term of occupancy;
  - (3) The number of square feet occupied by the Department, or if the total square footage is occupied by more than one agency, the total square feet and the percentage occupied by the Department;
  - (4) The gross rent per square foot for each of fiscal years 2005 and 2006;
  - (5) The date the lease commenced and the date it expired or will expire, and if it has expired, what the current tenancy status is;
  - (6) The rent schedule for the life of the lease and if the lease term has been exceeded, the rent for each year after the expiration date;
  - (7) Services included in the rent;
  - (8) Services specifically not included in the rent that the District is required to provide and the cost of each service;
  - (9) The assessed value of the property during each of fiscal years 2005 and 2006;
- and
- (10) The name of the individual who negotiated the lease on behalf of the District.

Sec. 5091. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE J. RESIDENTIAL PLACEMENT OF CHILDREN AGREEMENT

Sec. 5101. Short title.

This subtitle may be cited as the "Residential Treatment Centers Placement Act of 2005".

Sec. 5102. Residential treatment centers placement agreement.

(a) The Department of Mental Health ("DMH"), the Children and Family Services Administration ("CFSA"), and the Department of Youth Rehabilitation Services ("DYRS") shall enter into an agreement for DMH to contract for and authorize placements for all children and youth requiring residential treatment center placement, regardless of the fund source for children and youth with emotional or mental disorders.

(b) The agreement shall require DMH, CFSA, and DYRS to plan and contract jointly for evidence-based, effective community alternatives to residential treatment center placements.

(c) All residential treatment center providers who currently are not certified who choose to remain contractors with the District and who meet certification standards shall be certified by DMH.

Sec. 5103. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE K. DEPARTMENT OF MENTAL HEALTH RETIREMENT INCENTIVE PROGRAM ACT

Sec. 5111. Short title.

This subtitle may be cited as the "Department of Mental Health Retirement Incentive Programs Act of 2005".

Sec. 5112. Definitions.

For the purposes of this act, the term "felony" means an offense that is punishable by a term of imprisonment that exceeds one year or a fine of at least \$1,000, or both.

Sec. 5113. Easy out retirement incentive.

(a) Notwithstanding section 1106 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D. C. Official Code § 1-611.06) ("CMPA"), if the Council adopts changes to the Career and Excepted Service compensation system under section 1104 of the CMPA that authorize the Mayor to establish a retirement incentive



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program for certain District employees ("Easy Out Program"), the Department of Mental Health is hereby authorized to offer the cash incentives described in subsection (b) to employees who are eligible to participate in any Easy Out Program approved by the federal Office of Personnel Management and the District of Columbia Office of Personnel for fiscal year 2006, if the Department of Mental Health chooses to participate in the Easy Out Program.

(b) The Department of Mental Health may offer a retirement incentive of up to 50% of an employee's annual rate of base pay, based on the employee's salary or pay schedule in effect on October 1, 2005, not to exceed \$25,000, to be paid within one year of the employee's retirement.

(c) Retirement incentive payments shall be prorated in the case of a part-time employee.

(d) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(e) No incentive payment shall be paid to:

(1) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. § 8344;

(2) An employee who is in a critical position as defined by the Department of Mental Health;

(3) An employee who is under indictment or who is charged by information with or who has been convicted of a felony, or who has pled guilty or has been convicted after a plea of nolo contendere to a felony, related to his or her employment duties; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony; or

(4) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor, or who has pled guilty or has been convicted after a plea of nolo contendere to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor.

(f) An employee who receives an incentive payment under the Easy Out Program shall not be eligible for reemployment with the District government for 5 years from the date of retirement, and shall not be hired or retained as a sole source consultant or personal services contractor for 5 years from the date of retirement.

#### Sec. 5114. Early out retirement incentive.

(a) Notwithstanding section 1106 of the CMPA, if the Council adopts changes to the Career and Excepted Service compensation system under section 1104 of the CMPA that authorize the Mayor to establish a retirement incentive program for certain District employees ("Early Out Program"), the Department of Mental Health is hereby authorized to offer the cash incentives described in subsection (b) to employees who are eligible to participate in any Early Out Program approved by the federal Office of Personnel Management and the District of Columbia Office of

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Personnel for fiscal year 2006, if the Department of Mental Health chooses to participate in the Early Out Program.

(b) The Department of Mental Health may offer a retirement incentive of up to 50% of an employee's annual rate of base pay, based on the employee's salary or pay schedule in effect on October 1, 2005 not to exceed \$25,000, to be paid within one year of the employee's retirement.

(c) Retirement incentive payments shall be prorated in the case of a part-time employee.

(d) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(e) No incentive payment shall be paid to:

(1) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. § 8344;

(2) An employee who is in a critical position as defined by the Department of Mental Health;

(3) An employee who is under indictment or who is charged by information with or who has been convicted of a felony, or who has pled guilty or has been convicted after a plea of nolo contendere to a felony, related to his or her employment duties; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony; or

(4) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor, or who has pled guilty or has been convicted after a plea of nolo contendere to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor.

(f) An employee who receives an incentive payment under the Early Out Program shall not be eligible for reemployment with the District government for 5 years from the date of retirement, and shall not be hired or retained as a sole source consultant or personal services contractor for 5 years from the date of retirement.

Sec. 5115. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE L. DEPARTMENT OF MENTAL HEALTH ACUTE CARE INITIATIVE  
ACT

Sec. 5121. Short title.

This subtitle may be cited as "Department of Mental Health Acute Care Initiative Act of 2005".

Sec. 5122. Section 115 of the Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.15), is amended as follows:

(a) Designate the existing text as subsection (a).

(b) A new subsection (b) is added to read as follows:

"(b) The Department shall have the authority to request that the Medical Assistance Administration ("MAA") seek the approval of the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services for an amendment to the Medicaid State Plan that will provide for a per diem reimbursement for inpatient psychiatric treatment for cases where the authorized length of stay exceeds 7 days and the Diagnostic Related Group reimbursement does not exceed the per diem reimbursement schedule for Medicaid-eligible involuntary, emergency psychiatric admissions. The MAA shall submit the amendment to the Medicaid State Plan to the Council for approval by resolution within 30 days of receipt of approval of the amendment from the federal government."

Sec. 5123. Section 8(b) of the Health Services Planning Program Act of 1997, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-407(b)), is amended by adding a new paragraph (13) to read as follows:

"(13) Upon the effective date of the Department of Mental Health Acute Care Initiative Act of 2005, passed on 2<sup>nd</sup> reading on July 6, 2005 (Enrolled version of Bill 16-200), any increase in the licensed psychiatric bed capacity by a private general hospital, psychiatric hospital, or other specialty or rehabilitation hospital holding a certificate of need to operate psychiatric beds; provided, that the Department of Mental Health has requested such expansion specific to a reduction in psychiatric acute care services offered by Saint Elizabeths Hospital. The facility shall provide the Department of Mental Health with a copy of the letter of notice required by SHPDA for projects exempt from the certificate of need review."

Sec. 5124. Fiscal impact statement

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### SUBTITLE M. HIV/AIDS CRISIS AREA CAPACITY BUILDING FUND

Sec. 5231. Short title.

This subtitle may be cited as the "HIV/AIDS Crisis Area Capacity Building Fund Act of 2005".

Sec. 5232. Funds for HIV/AIDS Crisis Area Capacity Building.

(a) There is established a revolving HIV/AIDS Crisis Area Capacity Building Fund, to be administered by the Mayor, for the purposes of providing loans and grants of up to \$500,000 to

develop, support, expand, repair, or improve service delivery to persons with HIV/AIDS within those Wards that did not receive grants from the HIV/AIDS Administration during fiscal year 2005.

(b) There is authorized to be appropriated out of the revenue of the District \$500,000 to carry out the purposes of this act.

Sec. 5233. Rulemaking.

By December 1, 2005, the Mayor shall issue proposed rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

Sec. 5234. HIV/AIDS Administration Capacity Building Fund report.

(a) By December 1, 2005, the Mayor, through the HIV/AIDS Administration within the Department of Health, shall provide to the Council a report that includes a comprehensive plan for distributing the funds from the Capacity Building Fund to those wards that lack the infrastructure to provide preventative and maintenance services within the ward to persons living with HIV/AIDS.

(b) The Mayor shall submit to the Council no later than 180 days after the end of each fiscal year a report on the financial condition of the Capacity Building Fund, including the results of the operation of the fund for the preceding fiscal year and an analysis of the number of persons living with HIV/AIDS, by ward.

Sec. 5235. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE N. DESIGNATED APPROPRIATION ALLOCATIONS

Sec. 5241. Short title.

This subtitle may be cited as the "Designated Appropriation Allocation Act of 2005".

Sec. 5242. Grant by the City Administrator from operating funds available to the Department of Health.

(a) In recognition of the coalition of service providers known as Medical Homes D.C. led by the District of Columbia Primary Care Association ("DCPCA") and the Brookings Institution seeking to ensure that each resident of the District of Columbia has a primary care provider in his or her neighborhood to address his or her health needs, in addition to any contract for services authorized by the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1401 *et seq.*) ("Act"), and subject to any necessary appropriation and to the legal availability of funding, the Office of the City Administrator is authorized to award,

through a grant to the DCPCA from operating funds available to the Department of Health not including funding for any contract authorized by the Act, an amount not to exceed \$1.824 million during fiscal year 2006, of which \$100,000 may be granted to the DC Assembly on School Based Health Care to support and stimulate the Medical Homes D.C.'s public purpose of health improvement by ensuring that all residents of the District of Columbia, especially low-income residents and indigent residents, have a medical home where a primary care provider knows each patient's health history, where each patient can be seen regardless of ability to pay, and where each patient can routinely seek non-emergency medical care in the community where the patient resides.

(b) The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this section.

**Sec. 5243. Funding of the diabetes program.**

Of the funds appropriated in fiscal year 2006 for the Diabetes Control and Prevention Program in the Bureau of Chronic Diseases in the Primary Care and Prevention Administration of the Department of Health, \$75,000, which shall be a one-time, nonrecurring distribution, shall be granted to Howard University Hospital to support diabetes programs, subject to terms and conditions approved by the Department of Health.

**Sec. 5244. Funding of the prostate cancer program.**

Of the funds appropriated in fiscal year 2006 for the Prostate Cancer Program in the Bureau of Chronic Diseases in the Primary Care and Prevention Administration of the Department of Health, \$250,000, which shall be a one-time, nonrecurring distribution, shall be granted to Howard University Hospital to supplement its program for prostate cancer screening, subject to terms and conditions approved by the Department of Health.

**Sec. 5245. Funding of the breast, cervical, and ovarian early detection program.**

Of the funds appropriated in fiscal year 2006 for the Breast and Cervical Cancer Program in the Bureau of Chronic Diseases in the Primary Care and Prevention Administration in the Department of Health, \$250,000, which shall be a one-time, nonrecurring distribution, shall be granted to Greater Southeast Community Hospital to supplement its program for screening for breast, cervical, and ovarian cancer, subject to terms and conditions approved by the Department of Health.

**Sec. 5246. Funding of the tobacco control and cancer prevention program.**

Of the funds appropriated in fiscal year 2006 for the Tobacco Control and Cancer Prevention Program in the Bureau of Chronic Diseases in the Primary Care and Prevention Administration in the Department of Health, \$400,000, which shall be a one-time, nonrecurring distribution, shall be granted to the American Lung Association of DC for tobacco cessation initiatives, subject to terms and conditions approved by the Department of Health.

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Sec. 5247. Administration of the immunization program.

Of the funds appropriated in fiscal year 2006 for the Immunization Program in the Primary Care and Prevention Administration in the Department of Health, \$500,000, which shall be a one-time, nonrecurring distribution, shall be granted to the Children's National Medical Center to meet the needs identified by the Department of Health, subject to terms and conditions approved by the Department of Health.

Sec. 5248. Funds for area health education centers.

Of the funds appropriated in fiscal year 2006 for the Primary Care and Prevention Administration in the Department of Health, \$600,000, which shall be a one-time, nonrecurring distribution, shall be granted to the District of Columbia Area Health Education Center for health professional training programs and supplemental services, which will facilitate matching federal funds of \$800,000, subject to terms and conditions approved by the Department of Health.

Sec. 5249. Funds for organ transplant database.

Of the funds appropriated in fiscal year 2006 for the Primary Care and Prevention Administration in the Department of Health, \$100,000, which shall be a one-time, nonrecurring distribution, shall be granted to the Washington Regional Transplant Consortium for purposes of assisting with an organ transplant database for the District of Columbia, subject to terms and conditions approved by the Department of Health.

Sec. 5250. Funds for Food & Friends.

Of the funds appropriated in fiscal year 2006 for the HIV/AIDS Administration in the Department of Health, \$500,000, which shall be a one-time, nonrecurring distribution, shall be granted to Food & Friends for supplemental services, subject to terms and conditions approved by the Department of Health.

Sec. 5251. Funds for burial assistance.

Of the funds appropriated in fiscal year 2006 for the HIV/AIDS Administration in the Department of Health, no less than \$250,000, shall be made available for burial assistance, subject to appropriations.

Sec. 5252. Funds for Whitman Walker Clinic.

Of the funds appropriated in fiscal year 2006 for the HIV/AIDS Administration, \$1.525 million, \$525,000 of which shall come from unobligated funds, that shall be a one-time, nonrecurring distribution shall be made available for the Whitman Walker Clinic, subject to terms and conditions approved by the Department of Health.

Sec. 5253. Funds for Oak Hill Juvenile Detention Center and D.C. Jail HIV/AIDS counseling.

Of the funds appropriated in fiscal year 2006 for the HIV/AIDS Administration, \$323,000 shall be made available for pre-release and post-release HIV/AIDS counseling, testing, and referral services for inmates at Oak Hill Juvenile Detention Center and the D.C. Jail.

Sec. 5254. Funds for transgender community HIV/AIDS prevention education.

Of the funds appropriated in fiscal year 2006 for the HIV/AIDS Administration, \$150,000, which shall be a one-time, nonrecurring distribution, shall be granted to Transgender Health Empowerment, Inc., for HIV/AIDS support services and prevention education for transgendered individuals, subject to terms and conditions approved by the Department of Health.

Sec. 5255. Funds for volunteer responders database.

(a) Of the funds appropriated in fiscal year 2006 for contractual services in the Emergency Health and Medical Services Administration in the Department of Health, a grant of no less than \$50,000, which shall be a one-time, nonrecurring distribution, shall be provided to Greater DC Cares to assist with the creation of a database for volunteer emergency responders, subject to terms and conditions approved by the Department of Health.

(b) Of the funds appropriated in fiscal year 2006 for contractual services in the Emergency Health and Medical Services Administration in the Department of Health, a grant of no less than \$150,000, which shall be a one-time, nonrecurring distribution, shall be provided to the District of Columbia Hospital Association for the Hospitals' Terrorism Response Planning Coordination Services, subject to terms and conditions approved by the Department of Health.

Sec. 5256. Medical Assistance Administration Management Assistance.

Of funds appropriated in fiscal year 2006 for contractual services in Support Services in the Medical Assistance Administration in the Department of Health, up to \$5 million, which shall be a one-time, nonrecurring distribution, shall be made available exclusively for the Department of Health to contract with the School of Public Health at The George Washington University. The Department of Health shall have the ability to negotiate for rates and services and the contract shall be used at the discretion of the Director of the Department of Health to conduct federally reimbursable management and administrative projects on an as needed basis.

Sec. 5257. Funding for Medical Assistance Administration audit.

Of the funds appropriated in fiscal year 2006 to the Medical Assistance Administration in the Department of Health up to \$2 million shall be allocated to contractual services in the Office of Program Integrity to perform comprehensive audits of programs within Medicaid.

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## Sec. 5258. Funds for Medicaid dental services.

(a) Of the funds appropriated in fiscal year 2006 for the Office of Managed Care in the Medical Assistance Administration in the Department of Health, in addition to the resources requested by the Mayor for dental services, no less than \$1.5 million shall be used to increase reimbursement rates and access to dental services, especially for preventive care for children enrolled in the Managed Care Program, subject to appropriations.

(b) No later than January 1, 2006, the Medical Assistance Administration shall establish a minimum reimbursement schedule, to be included in the Medicaid Managed Care program, for the provision of pediatric dental services for children, including cleaning, sealants, and bitewings.

## Sec. 5259. Funds for Medical Home Health Care Staff living wage.

(a) Of the funds appropriated in fiscal year 2006 for Subsidies and Transfers in the Office of Disabilities and Aging in the Medicaid Assistance Administration in the Department of Health, \$6 million shall be allocated for payment of a living wage to home health care workers and personal care assistants who service the Medicaid program in the District at a minimum of \$10.50 per hour.

(b) By November 1, 2005, any home health care agency or personal care service provider that fails to meet this minimum wage requirement shall be ineligible to receive funds under the Medicaid program in the District.

## Sec. 5260. Fund for Elderly and Physically Disabled waiver implementation.

Of the funds appropriated in fiscal year 2006 for the Office of Disabilities and Aging in the Medicaid Assistance Administration in the Department of Health, no less than \$1,505,250 shall be expended for services to the elderly and physically disabled pursuant to the implementation of the Elderly and Physically Disabled Waiver, the 1950(c) Home and Community Based Waiver, subject to appropriations.

## Sec. 5261. Funds for the health care ombudsman program.

Of the funds appropriated in fiscal year 2006 for the Office of Program Operations in the Medicaid Assistance Administration in the Department of Health, \$500,000 shall be allocated to fund the Health Care Ombudsman Program established pursuant to the Health Care Ombudsman Program Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-331; 52 DCR 1981).

## Sec. 5262. Funding for Nursing Facility Quality of Care Fund.

(a) Of the local funds appropriated for fiscal year 2006 for the Department of Health, \$2 million shall be used exclusively for the purpose of funding the Nursing Facility Quality of Care Fund established by the Nursing Facility Quality of Care Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code § 47-1262), to implement a nursing home case mix reimbursement methodology.



(b) If the Department of Health does not implement a case mix reimbursement methodology in fiscal year 2006:

(1) The fiscal year 2006 budget for the Department of Health shall be reduced by \$2 million; and

(2) The Chief Financial Officer of the District of Columbia shall include this \$2 million for the purposes of calculating tax relief triggers for fiscal year 2006 and the fiscal years 2006-2009 financial plan.

Sec. 5263. Funds for allied training programs.

Of the funds appropriated in fiscal year 2006 for the Department of Health, \$1 million, which shall be a one-time, nonrecurring distribution, shall be granted to Southeastern University to work in partnership with the Service Employees International Union to develop training programs for allied health services, subject to terms and conditions approved by the Department of Health.

Sec. 5264. Funds for choice in drug treatment vouchers.

Of the funds appropriated in fiscal year 2006 for the Department of Mental Health, \$900,000 shall be made available for substance abuse vouchers utilizing the Addiction Prevention and Recovery Administration Choice in Drug Treatment Program to coordinate comprehensive treatment and support to substance abusers with mental illness.

Sec. 5265. School-based mental health services funds.

Of the funds appropriated in fiscal year 2006 for the Department of Mental Health, \$3.6 million shall be allocated to school-based mental health services.

Sec. 5266. Funds for jail diversion.

Of the funds appropriated in fiscal year 2006 for contractual services in Direct Community Services in the Department of Mental Health, \$1.5 million shall be allocated to the Department to expand jail diversion programs for persons with mental health illness, to provide mental health services at the D.C. Jail, and to provide services for persons with mental illness being released from jail.

Sec. 5267. Funds for housing for individuals with mental illness.

Of the funds appropriated in fiscal year 2006 for contractual services in Direct Community Services in the Department of Mental Health, in addition to the funds in the Mayor's fiscal year budget request for housing, \$1 million shall be allocated for enhancing the Department's supported housing program in order to develop affordable housing for individuals with mental illness.

Sec. 5268. Mental health parental support funding.

Of the funds appropriated in fiscal year 2006 for contractual services in Direct Community Services in the Department of Mental Health, \$250,000, which shall be a one-time, nonrecurring

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distribution, shall be granted to the District of Columbia Birth Center, Inc., to support their critical community work, which includes parental education and postpartum counseling, subject to terms and conditions approved by the Department of Mental Health.

Sec. 5269. Substance abuse prevention and outreach funds.

Of the funds appropriated in fiscal year 2006 for the Addiction Prevention and Recovery Administration, \$150,000 shall be granted, to service providers located in wards that currently lack the capacity to provide for substance abuse prevention and outreach, subject to terms and conditions approved by the Department of Health.

Sec. 5270. Mental health substance abuse detoxification facility funds.

Of the funds appropriated in fiscal year 2006 for the Department of Mental Health, \$100,000 shall be allocated to mental health services at the Addiction Prevention and Recovery Administration Detoxification Facility.

Sec. 5271. Funding provided for the Department of Health by the Committee on Finance and Revenue.

Of the one-time, nonrecurring funds transferred to the Department of Health by the Committee on Finance and Revenue and appropriated in fiscal year 2006:

- (1) An amount up to \$250,000 shall be used by the HIV/AIDS Administration for HIV prevention grants;
- (2) An amount up to \$150,000 shall be used by the Addiction Prevention and Recovery Administration to provide funding for a mobile outreach and treatment van;
- (3) An amount up to \$530,000 shall be used by the Bureau of Chronic Diseases in the Primary Care and Prevention Administration for the following purposes:
  - (A) Thirty thousand dollars to be granted to the D.C. Cancer Consortium to promote and coordinate activities to educate the general public on cancer prevention and to promote healthy lifestyles;
  - (B) Sixty thousand dollars to be granted to the D.C. Cancer Consortium to develop and maintain a cancer website listing cancer-related services and programs within the District of Columbia;
  - (C) Two hundred fifty thousand dollars to be granted to the Capital Breast Care Center to develop and test a model program to improve outreach, quality, and timeliness of breast care for low-income DC residents;
  - (D) One hundred Ninety thousand dollars to be granted for breast, cervical, and ovarian cancer outreach and treatment services to low-income women; and
- (4) An amount up to \$210,000 shall be used to fund school-based health programs, of which \$100,000 shall be granted to the D.C. Assembly on School Based Health Care.

## Sec. 5272. Conforming requirements.

The designated appropriation allocations of this subtitle shall be consistent with the requirements of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85, D.C. Official Code § 2-301.01 *et seq.*), 1 DCMR 5000 *et seq.*, or the terms and conditions to the federal funding source, whichever is applicable.

## Sec. 5273. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## SUBTITLE O. FUNDING SAFEGUARDS FOR THE CHILD AND FAMILY SERVICES AGENCY

## Sec. 5275. Short title.

This subtitle may be cited as the "Funding Safeguards for the Child and Family Services Agency Act of 2005".

## Sec. 5276. Additional fiscal year 2006 funding for hiring of Child and Family Services Agency personnel.

(a) Any request for additional funding in fiscal year 2006 for the Child and Family Services Agency to hire necessary personnel transmitted by the Mayor to the Council shall:

- (1) Not be for an amount that would make the total amount allocated for hiring personnel exceed total funds requested for that purpose in the original fiscal year 2006 budget transmitted by the Mayor to the Council;
- (2) Identify the source of the funding; and
- (3) Include a certification from the Chief Financial Officer that the funds are available and needed to hire personnel.

(b) Funding sought under subsection (a) of this section shall be in addition to the \$1 million to support increased hiring authorized by section 1011(a)(6).

## Sec. 5277. Transfer of funding to the Child and Family Services Agency for provision of mental health services.

If the Department of Mental Health ("DMH") is unable to build the capacity to provide mental health services to foster-care children under the jurisdiction of the Child and Family Services Agency ("CFSA") in fiscal year 2006, the Mayor may transmit to the Council a reprogramming request that would transfer to the CFSA the \$3.3 million allocated to the DMH for that purpose in fiscal year 2006, or any balance of that allocation. The CFSA shall use the transferred funds to provide mental health services to the foster-care children under its jurisdiction.

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## Sec. 5278. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## TITLE VI. PUBLIC WORKS

## SUBTITLE A. TRAFFIC AMENDMENT

## Sec. 6001. Short title.

This subtitle may be cited as the "Traffic Amendment Act of 2005".

Sec. 6002. Section 6(k)(4) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03 (k)(4)), is amended by striking the figure "\$50" and inserting the figure "\$75" in its place.

## Sec. 6003. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## SUBTITLE B. PARKING FINES INCREASE

## Sec. 6011. Short title.

This subtitle may be cited as the "Parking Fines Increase Act of 2005".

Sec. 6012. Section 2601.1 of Title 18 of the District of Columbia Municipal Regulations is amended as follows:

(a) The infraction "Overtime at [§2404.3]" under the caption "Meter" is amended by striking the figure "15" and inserting the figure "25" in its place.

(b) The infraction "In time zone restricted by posted sign [ 2400.7]" under the caption "Overtime" is amended by striking the figure "15" and inserting the figure "25" in its place.

(c) The infraction "Not parked in meter space [§ 2404.4]" under the caption "Meter" is amended by striking the figure "15" and inserting the figure "25" in its place.

(d) The infraction "Stop sign, within 25 feet of [2405.2(d)]" is amended by striking the figure "20" and inserting the figure "50" in its place.

(e) The infraction "Bus stand or zone [§ 2409.3]" is amended by striking the figure "50" and inserting the figure "100" in its place.

(f) The infraction "Official parking permit space, in [§ § 2406.1, 2417]" is amended by striking the figure "20" and inserting the figure "25" in its place.

(g) The infraction "Government vehicles only [ 2406.1]" is amended by striking the figure "20" and inserting the figure "25" in its place.

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(h) The infraction "Motorcycle parking only [§ § 4019.11, 4023.5]" is amended by striking the figure "20" and inserting the figure "25" in its place.

(i) The infraction "Emergency no parking [§ 2407.9]" is amended by striking the figure "20" and inserting the figure "50" in its place.

Sec. 6013. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

SUBTITLE C. LOCAL ROADS CONSTRUCTION AND MAINTENANCE FUND

Sec. 6021. Short title.

This subtitle may be cited as the "Local Roads Construction and Maintenance Fund Amendment Act of 2005".

Sec. 6022. The Highway Trust Fund Establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-184; D.C. Official Code § 9-111.01 *et seq.*), is amended as follows:

(a) Section 102a (D.C. Official Code § 9-111.01a) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "or any other regulations," and inserting the phrase "or any other regulations, 50% of the proceeds of sales and use tax collected by the District for parking and storing vehicles," in its place.

(2) Subsection (c) is repealed.

(3) Subsection (d)(3) is repealed.

(b) Section 102b (D.C. Official Code §9-111.01b) is repealed.

Sec. 6023. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE D. INTERNATIONAL REGISTRATION PLAN FUND REVISION

Sec. 6031. Short title.

This subtitle may be cited as the "International Registration Plan Agreement Amendment Act of 2005".

Sec. 6032. Subsection 7(b) of the International Registration Plan Agreement Act of 1997, effective September 5, 1997 (D.C. Law 12-14; D.C. Official Code § 50-1507.06(b)), is amended to read as follows:

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"(b)(1) Vehicle registration fees for IRP registrants, and all interest earned on those fees, shall be deposited into a designated account entitled the IRP Fund to be used to reimburse IRP member jurisdictions and after such reimbursement to offset the costs of implementing this act.

"(2) Any monies remaining in the IRP fund after the requirements of paragraph (1) of this subsection have been met may be used by the Department of Motor Vehicles to defray operating costs.

"(3) All monies collected under this subsection and all interest earned on those monies shall be deposited into the IRP Fund without regard to fiscal year limitation, shall not revert to the fund balance of the General Fund at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this subsection, subject to authorization by Congress."

Sec. 6033. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

SUBTITLE E. DISTRICT DEPARTMENT OF TRANSPORTATION OPERATING FUND

Sec. 6061. Short title.

This subtitle may be cited as the "District Department of Transportation Operating Fund Establishment Amendment Act of 2005".

Sec. 6062. The Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D. C. Official Code § 50-921.01 *et seq.*), is amended by adding new sections 11a and 11b to read as follows:

"Sec. 11a. District Department of Transportation Operating Fund.

"(a)(1) There is hereby established the District Department of Transportation Operating Fund ("DDOT Fund"), as a nonlapsing, revolving fund, the funds of which shall be for the District Department of Transportation to pay for goods, services, property, or for any other permitted purpose as authorized by section 5, subject to authorization by Congress in an appropriations act.

"(2) Excluding monies collected in the current year, any money deposited in the DDOT Fund in the year prior to the current year and the interest earned on that money remaining in the DDOT Fund after the payment of costs accrued in the prior year, less 20% of that remaining amount, to be retained as a reserve operating balance, shall be transferred or revert to the fund balance of the General Fund of the District of Columbia.

"(b) Local funds shall be deposited in the DDOT Fund for the purposes set forth in subsection (a) of this section as follows:

"(1) Beginning October 1, 2005:

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"(A) One hundred percent of the proceeds collected by the District for rental of public space;

"(B) Fifty percent of the proceeds of sales and use taxes collected by the District for parking and storing vehicles; provided, that the funds shall be used exclusively to pay the debt service associated with approved programs, such as the Traffic Relief Program; and

"(C) One hundred percent of the District's parking meter proceeds.

"(2) Beginning on October 1, 2005, the Mayor shall submit to the Council a report, certified by the Office of the Chief Financial Officer, that details the activities, budget, expenditures, and variances, at the program level, of all programs, activities, and projects undertaken by the District Department of transportation from all available funding sources. The report shall be submitted on a quarterly basis.

"Sec. 11b. Securities funds; Council project approval.

"(a) For each project for which funding is derived, in whole or in part, from securitized funds, the Mayor shall submit to the Council a resolution of project approval accompanied by a summary description of the proposed project, including the cost of the project, the expected duration of the project, details of the financing, and a summary of the public benefits to be derived from the proposed project for a 45-day period of Council review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

"(b) The Council may approve, conditionally approve, or disapprove a proposed project by resolution within 45 days after the Mayor transmits to the Council the proposed resolution and information set forth in subsection (a) of this section. If the Council takes no action on the resolution within the 45-day review period, the project shall be deemed approved."

Sec. 6063. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

## TITLE VII. EFFECTIVE DATE

Sec. 7001. This act shall take effect following approval by the Mayor (or in event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,

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AN ACT  
D.C. ACT 16-167

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 26, 2005

*Codification  
District of  
Columbia  
Official Code*

2001 Edition

2005 Fall  
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West Group  
Publisher

To amend, on an emergency basis, Title 16 of the District of Columbia Official Code to conform the general garnishment provisions to the income withholding requirements applicable to support orders, to provide for the enforcement of support orders by withholding according to applicable criteria, to require the Superior Court of the District of Columbia ("Court") to order that certain support payments be made through the Collection and Disbursement Unit, and to require that payments under support orders subject to enforcement by the IV-D agency be made in equal monthly installments; and to amend the District of Columbia Child Support Enforcement Amendment Act of 1985 to revise and update applicable definitions, to fully establish the IV-D agency as the District's Collection and Disbursement Unit, to specify the support payments that must be made through the Collection and Disbursement Unit, to revise the requirements for the content of support orders, to clarify and revise the criteria for withholding and the process through which withholding shall be implemented, to transfer responsibility for implementing withholding from the Court to the IV-D agency, to state the amounts that shall be withheld for current support and arrearages and provide a means for requesting a change in these amounts, to authorize the Court to enforce orders to withhold issued by the IV-D agency, to clarify that a notice of withholding to the obligor is only required in cases of initiated withholding being enforced by the IV-D agency, to eliminate escrow provisions relating to objections to withholding, to clarify the definition of a mistake of fact for the purpose of an objection to withholding, to specify that the time frame for resolving an objection to withholding begins on the date of service of the objection on the opposing party, to clarify the required contents of the notice or order to withhold to the holder, to require the holder to notify the IV-D agency of a termination of the obligor's employment, to expand the time frame during which a holder must submit payments to the Collection and Disbursement Unit and specify when withholding must begin, to authorize both the Court and the IV-D agency to notify the holder to terminate the withholding, to require the IV-D agency to issue an order to withhold to an obligor's new employer within 2 business days of receipt of updated employment information, to require the pro-ration of all types of payments among the support orders of multiple obligees, to clarify the requirements of interstate withholding, to clarify that the IV-D agency is the District's centralized parent locator service and



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require persons and entities to provide the IV-D agency with specified information, to clarify that an administrative proceeding before the IV-D agency is not available to challenge notices or orders to withhold, and to make other conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Income Withholding Transfer and Revision Emergency Amendment Act of 2005".

Sec. 2. Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents for Chapter 5 is amended by adding the phrase "§ 16-571.01. Enforcement of support orders by attachment or garnishment." after the phrase "§ 16-571. Definitions."

(b) A new section 16-571.01 is added to read as follows:

"§ 16-571.01. Enforcement of support orders by attachment or garnishment.

"Notwithstanding any other provision of this subchapter, a notice or order to withhold issued to enforce a support order pursuant to Subchapter I of Chapter 2 of Title 46 shall have priority over any other legal process and shall be implemented according to the procedures, limitations, and requirements of that act."

(c) Section 16-573(b) is amended by striking the phrase "; except that, in the case of child support judgments, the employer shall continue to withhold the payments from the judgment debtor until receipt of an order of the court terminating the withholding".

(d) Section 16-577 is amended by striking the period at the end of the second sentence and adding the phrase ", except that a notice or order to withhold issued pursuant to Subchapter I of Chapter 2 of Title 46 shall have priority over any other legal process and shall be subject to the limitations stated in section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b))." in its place.

(e) Section 16-582 is amended by adding the sentence "Unless otherwise specified, this subchapter does not apply to notices or orders to withhold issued pursuant to Subchapter I of Chapter 2 of Title 46." at the end.

(f) Section 16-911(a)(1) is amended by striking the phrase "and shall enforce support orders through withholding as required under section 46-207" and inserting the phrase "and all support orders shall be enforceable by withholding as provided in section 46-207" in its place.

(g) Section 16-916 is amended to add a new subsection (c-4) to read as follows:

"(c-4) All support orders subject to enforcement by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 *et seq.*), shall require the payment of support in equal monthly amounts on the first day of each month. If a support order does not require the payment of support in this manner and the support order is or becomes subject to enforcement by the IV-D agency, the IV-D agency may direct the payor, upon notice to both parents, to pay the support in equal monthly amounts on

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the first day of each month; provided, that the total of the monthly amounts required to be paid in one year cumulatively equals the total support required to be paid annually under the support order.”.

(h) Section 16-916.01(o)(3A) is amended by striking the phrase “specific facility,” and inserting the phrase “specific facility (except where the parent is incarcerated for contempt for failure to pay child support pursuant to section 46-225.02),” in its place.

Sec. 3. The District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code § 46-201 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 46-201) is amended to read as follows:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) “Business day” means a day on which District offices are open for regular business.

“(2) “Caretaker” means a parent, relative, guardian, or other person whose needs are included in a public assistance payment for a dependent child and who is using those payments for the benefit of the dependent child.

“(3) “Collection and Disbursement Unit” or “CBU” means the centralized unit operated by the IV-D agency for the collection and disbursement of support payments as required under section 454B of title IV, part D of the Social Security Act, approved August 22, 1996 (110 Stat. 2207; 42 U.S.C. § 654B).

“(4) “Court” means the Superior Court of the District of Columbia.

“(5) “Custodian” means the parent, relative, guardian, or other person with whom the dependent child resides.

“(6) “Dependent child” means any child whose support is required by D.C. Official Code § 16-916, or any child to whom a responsible relative owes a duty of support.

“(7) “Duty of support” means:

(A) Any duty of support imposed by statute or by common law;

(B) Any duty of support imposed by court order, decree, or judgment, whether interlocutory or final; and

(C) Any duty of reimbursement imposed by law for monies expended by the District for support, including public assistance and foster care.

“(8) “Earnings” means any remuneration based on employment, including, but not limited to, wages, salaries, annuities, retirement benefits, unemployment compensation, and disability benefits.

“(9) “Entity” means a partnership, firm, association, corporation, sole proprietorship, company, organization, or other business, including a governmental or nonprofit organization.

“(10) “IV-D agency” means the Child Support Services Division of the Office

Note,  
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of the Attorney General for the District of Columbia, or successor organizational unit, that is responsible for administering or supervising the administration of the District's State Plan under title IV, part D, of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 *et seq.*), pertaining to parent locator services, paternity establishment, and the establishment, modification, and enforcement of support orders.

"(11) "Holder" means any person, firm, association, corporation, government official, or other entity that is believed to possess property of an obligor, including earnings or other income.

"(12) "Mayor" means the Mayor of the District of Columbia or the Mayor's designee.

"(13) "Notice to withhold" means a written notice informing a holder that an obligor's support order is enforceable by withholding and directing the holder to implement the withholding.

"(14) "Obligee" means a person or entity who is entitled to receive support pursuant to a support order.

"(15) "Obligor" means a person who is required to pay support pursuant to a support order.

"(16) "Order to withhold" means an order that requires a holder to turn over earnings or other income in a specified amount to a specified payee rather than to an individual to whom the earnings or other income would otherwise be payable.

"(17) "Other income" means any income available to an individual, whether or not derived from remuneration based on employment.

"(18) "Public assistance" means assistance granted under the District's Temporary Assistance for Needy Families Program or Program on Work, Employment, and Responsibility pursuant to the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*).

"(19) "Responsible relative" means a person obligated under law for the support of a dependent child.

"(20) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief."

(b) Section 3a (D.C. Official Code § 46-202.01) is amended to read as follows:

"Sec. 3a. Collection and Disbursement Unit.

"(a) The IV-D agency is established as the centralized Collection and Disbursement Unit for the collection and disbursement of support payments and shall operate the CBU either directly or through a contract or cooperative agreement with another entity.

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“(b) The Collection and Disbursement Unit shall collect and disburse support payments under the following support orders, and obligors and holders required to pay support pursuant to these orders shall submit payments to the CBU for disbursement to the obligee:

“(1) All support orders enforced by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 *et seq.*);

“(2) All support orders not enforced by the IV-D agency where the support order was initially issued in the District on or after January 1, 1994, and for which withholding of the obligor's earnings or other income has commenced; and

“(3) All other support orders for which the Court has ordered that payments be made through the Collection and Disbursement Unit, or for which withholding of the obligor's earnings or other income has commenced.

“(c) The IV-D agency shall operate the Collection and Disbursement Unit in coordination with the automated system the IV-D agency maintains pursuant to section 27j.

“(d)(1) The Collection and Disbursement Unit shall use automated procedures, electronic processes, and computer-driven technology, to the maximum extent that is feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures:

“(A) For receipt of payments from obligors, holders, and other states, and for disbursements to obligees, the IV-D agency, and the IV-D agencies of other states;

“(B) For accurate identification of payments;

“(C) To ensure prompt disbursement of each obligee's share of any payment; and

“(D) To furnish to any obligor or obligee, upon request, timely information on the current status of support payments required to be made through the Collection and Disbursement Unit pursuant to subsection (b) of this section.

“(2) The Collection and Disbursement Unit shall not be required to convert and maintain, in automated form, records of payments made before August 22, 1996, for support orders subject to withholding that are not enforced by the IV-D agency.

“(e) The Collection and Disbursement Unit shall disburse all amounts payable within 2 business days after receipt from the employer or other holder if sufficient information identifying the payee is provided. The Collection and Disbursement Unit may delay the disbursement of collections toward arrearages until any appeal with respect to such arrearages has been resolved.”.

(c) Section 5(d) (D.C. Official Code § 46-204(d)) is amended by adding a new paragraph (3) to read as follows:

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“(3) Incarceration for contempt for failure to pay child support pursuant to section 26b shall not constitute a change in circumstances sufficient to warrant a modification of support under subsection (a) of this section.”.

(d) Section 6 (D.C. Official Code § 46-205) is amended to read as follows:

“Sec. 6. Contents of support order.

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All support orders, whether they are original orders or modifications of existing orders, shall contain the following:

“(1) A provision requiring the withholding of support payments from the obligor’s earnings or other income in accordance with this act;

“(2) Notice that the support order shall be enforceable by withholding as specified in sections 8 and 8a;

“(3) Notice that payments required by a support order specified in section 3a(b) shall be made through the Collection and Disbursement Unit and any other payments shall be considered a gift and shall not offset the duty of support;

“(4) A provision that directs the parties to file and update the information specified in section 27b with the IV-D agency and the Court in accordance with that section;

“(5) Terms providing for the payment of the child's medical expenses, whether or not health insurance is available to pay for those expenses, which shall include a provision directing the obligor and obligee to notify the IV-D agency and the Court of the following:

“(A) Any change in either the obligor's or the obligee's access to health insurance coverage for the child or the reasonableness of the costs of coverage; and

“(B) All health insurance policy information necessary to enroll the child in the health insurance to which the obligor or obligee has access;

“(6) Notice that if the obligor is required under the support order to provide health insurance coverage for a child, the obligor's employer will, upon receipt of notice of the health insurance coverage provision, enroll the child in health insurance coverage and deduct the premiums from the obligor's earnings in accordance with sections 2 and 3 of the Medicaid Benefits Protection Act of 1994, effective March 14, 1995 (D.C. Law 10-202; D.C. Official Code §§ 1-307.41, 1-307.42), and the Medical Support Establishment and Enforcement Amendment Act of 2004, effective March 30, 2004 (D.C. Law 15-130; D.C. Official Code § 46-251.01 *et seq.*);

“(7) Notice that the amount and name of the obligor and obligee of all support orders entered, modified, registered, or enforced in the District after December 23, 1997 shall be reported to a consumer credit reporting agency if the obligor owes overdue support in the amount of \$1,000 or more;

“(8) The name, address, and telephone number of the obligor’s current employer; and

“(9) Notice that an order to withhold may be changed upon a motion by a party or the IV-D agency for a reapportionment of periodic arrears payments pursuant to section 9(c).”

(e) Section 6a (D.C. Official Code § 46-205.01) is amended as follows:

(1) The section heading is amended by striking the phrase “child and spousal”.

(2) The text is amended by striking the word “Superior”.

(f) Section 7 (D.C. Official Code § 46-206) is amended as follows:

(1) Subsection (a) is amended to read as follows:

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“(a) In any case brought in Court under D.C. Official Code § 11-1101(a)(1), (3), (10), or (11) involving the establishment of support, the Clerk of the Court shall issue notice to the alleged responsible relative stating that a hearing to determine the matter of support has been scheduled. This hearing shall be scheduled within 45 days after the date the application is filed.”.

(2) Re-designate subsection (b-1) as subsection (f).

(3) Subsection (c) is amended to read as follows:

“(c) The notice shall include the following:

“(1) The name of the person for whom support is being claimed;

“(2) A demand that the alleged responsible relative attend a hearing and the date, time, and place of the hearing;

“(3) An explanation of the possible consequences of the alleged responsible relative's failure to attend the scheduled hearing;

“(4) A demand that the alleged responsible relative bring to the hearing any record in the relative's possession of earnings received in the past 2 years, including receipts for earnings provided by an employer, or any wage and tax statements prepared by an employer setting forth earnings for tax purposes;

“(5) Notice that the alleged responsible relative may be represented by counsel at any stage of the proceedings;

“(6) An explanation that a request for a continuance may result in the setting of interim support or the posting of collateral; and

“(7) A copy of the complaint or petition.”.

(4) A new subsection (e) is added to read as follows:

“(e) Where a party is seeking a modification of a support order:

“(1) The Clerk of the Court shall issue notice to the opposing party:

(A) Stating that a hearing to determine the matter of support has been scheduled;

(B) Containing the information stated in subsection (c) of this section; and

(C) Including a copy of the motion for modification;

“(2) The hearing shall be scheduled within 45 days after the date the application is filed; and

“(3) Personal service on the opposing party may be made in accordance with subsection (b) or (f) of this section.”.

(g) Section 8 (D.C. Official Code § 46-207) is amended to read as follows:

“Sec. 8. Enforcement by withholding.

“(a) All support orders, whether they are original orders or modifications of existing orders, that are effective on or after January 1, 1994, or that are effective on or after November 1, 1990 in cases being enforced by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 *et seq.*), shall be

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immediately enforceable by withholding, unless the Court finds there is good cause not to require immediate withholding or the parties agree in writing to an alternative method of payment.

“(b) A finding of good cause not to require immediate withholding pursuant to subsection (a) of this section shall be based on at least:

“(1) A written finding and explanation by the Court establishing the reasons that immediate withholding would not be in the best interests of the child; and

“(2) Proof of timely payment of previously ordered support in cases involving the modification of support orders.

“(c) A written agreement to an alternative method of payment shall be signed by the parties, and by the IV-D agency for support orders being enforced by the IV-D agency. The agreement shall be submitted to the Court for its review and approval, and entered into the Court's record.

“(d) All support orders being enforced by the IV-D agency that are not immediately enforceable by withholding under subsection (a) of this section, including support orders subject to a finding of good cause or a written agreement to an alternative method of payment, shall become enforceable by withholding on the earliest of:

“(1) The date the obligor requests that the withholding begin;

“(2) The date the custodian requests that the withholding begin; provided, that the IV-D agency approves the request pursuant to procedures the IV-D agency adopts for determining that withholding is in the best interests of the child; or

“(3) The date on which arrearages equal one month of support payments.

“(e) A support order shall be enforceable by withholding pursuant to subsection (a) or (d) of this section regardless of whether or not the Court has entered an order authorizing withholding as a means of enforcement.

“(f) All support orders not enforceable by withholding under subsection (a) or (d) of this section shall be enforceable by withholding on the effective date of a court order authorizing the withholding. The Court shall enter an order authorizing withholding, at the request of a party, upon a showing that:

“(1) Arrearages equal one month of support payments; or

“(2) Withholding is in the best interests of the child.”.

(h) A new section 8a is added to read as follows:

“Sec. 8a. Implementation of withholding.

“(a) The IV-D agency shall implement withholding for support orders enforceable by withholding pursuant to section 8 by issuing an order to withhold in the format prescribed by federal law and serving this order on the holder of the obligor's earnings or other income as follows:

“(1) For support orders that are immediately enforceable by withholding pursuant to section 8(a), within 2 business days after the date the support order is received if the holder's address is known, or, if the holder's address is unknown, within 2 business days after

receiving or locating the holder's address.

"(2) For support orders that become enforceable by withholding pursuant to section 8(d), within 2 business days after the date the support order becomes enforceable by withholding if the holder's address is known, or, if the holder's address is unknown, within 2 business days after receiving or locating the holder's address.

"(3) For support orders enforceable by withholding pursuant to section 8(f), within 2 business days of receipt of a written request from the Court or a party that includes a copy of the support order and the order authorizing the withholding; provided, that the holder's address is known, or if the holder's address is unknown, within 2 business days after receiving the holder's address.

"(b) If an obligor changes employment while a withholding is in effect, the IV-D agency shall serve an order to withhold on the new holder within 2 business days after receiving or locating the new holder's address.

"(c) For the purpose of this section, the IV-D agency shall be deemed to have received the holder's address on the date the IV-D agency's computerized support enforcement system receives notice of income or an income source from a court, a state, a holder, the Federal Parent Locator Service, or another source recognized by the IV-D agency, or the date information regarding a newly hired employee is entered into the District of Columbia Directory of New Hires pursuant to section 27f. The Court shall provide the IV-D agency with information it receives concerning the name or address of a holder within 2 business days after receiving the information.

"(d) The IV-D agency shall use the automated system it maintains pursuant to section 27j to the maximum extent that is feasible to assist and facilitate the collection and disbursement of support payments and the implementation of withholding, including:

"(1) Transmission of orders to withhold to employers and other holders;

"(2) Ongoing monitoring to promptly identify failures to make timely payment of support; and

"(3) Automatic use of enforcement procedures if payments are not timely made.

"(e) Any person or entity may serve a notice to withhold in the format prescribed by federal law on a holder of an obligor's earnings or other income to inform the holder that the obligor's support order is enforceable by withholding and to require the holder to implement withholding in accordance with this act. A person or entity serving a notice to withhold shall provide a copy of the support order and the order authorizing the withholding to the holder with the notice.

"(f) Notices and orders to withhold may be served without prior notice to the obligor, by in-person delivery, certified mail, first-class mail, facsimile, or electronically, if the holder can receive electronic notices."

(i) Section 9 (D.C. Official Code § 46-208) is amended to read as follows:

"Sec. 9. Withholding.

"(a) Notwithstanding any other provision of Subchapter II or III of Chapter 5 of Title

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§ 46-208



16, where a notice or order to withhold is served on a holder of an obligor's earnings or other income, the withholding shall be for an amount sufficient to satisfy the obligor's periodic support obligation, an amount equal to 25% of the periodic support obligation if the obligor owes overdue support, and other costs or fees required by the support order.

"(b) When an obligor is no longer subject to a periodic support obligation but owes overdue support, the withholding shall be for the amount of the obligor's most recent periodic support obligation.

"(c) Upon a motion by a party or the IV-D agency, the Court may order withholding of an amount that differs from the amount required for overdue support pursuant to subsection (a) or (b) of this section if the Court finds that the amount required would:

"(1) Cause a substantial hardship to the obligor; or

"(2) Result in an unreasonable delay in the full payment of the overdue support.

"(d) A notice or order to withhold served on a holder in accordance with this act shall have priority over any other legal process under District law, and shall not exceed the limitations set forth under section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)).

"(e) The Collection and Disbursement Unit shall establish procedures for the prompt return to an obligor of any amounts it receives that have been improperly withheld.

"(f) Nothing in this act shall be construed to require a judicial or administrative hearing before the implementation of withholding.

"(g) An order to withhold issued in accordance with this act shall be binding on each present and future holder upon whom it is served until the holder is notified of its termination in writing by the Court or the IV-D agency. Upon a motion filed by a party or the IV-D agency, the Court may enforce an order to withhold issued by the IV-D agency in the same manner as the Court may enforce a judicial order, including civil contempt.

"(h) Where a party or entity registers a support order entered in another jurisdiction for enforcement pursuant to the Uniform Interstate Family Support Act of 1995, effective February 9, 1996 (D.C. Law 11-81; D.C. Official Code § 46-301.01 *et seq.*), withholding shall be implemented in the same manner and subject to the same procedures as a support order entered in the District of Columbia."

(j) Section 10 (D.C. Official Code § 46-209) is amended to read as follow:

"Sec. 10. Notice of withholding to the obligor.

Note,  
§ 46-209

"(a) If a support order becomes enforceable by withholding pursuant to section 8(d), the IV-D agency shall send a notice of withholding to the obligor and shall certify the date the notice is mailed.

"(b) The notice of withholding to the obligor shall include the following:

"(1) Notice that withholding has commenced;

"(2) A statement of any arrearage that has accrued, the amount of the support obligation that is accruing, and the periodic amount required to be paid in the future;

"(3) A statement of the amount of the obligor's earnings or other income that

shall be withheld;

“(4) A statement that the withholding shall apply to any current and subsequent employer or period of employment;

“(5) A statement that the obligor has the right to object to the withholding, a statement of the procedures available for objecting to the withholding, and a statement that the only basis for objecting to the withholding is a mistake of fact as defined in section 11(c);

“(6) A statement of the actions that will be taken if the obligor objects to the withholding; and

“(7) A statement of the information given to the holder pursuant to section 12.

“(c) The IV-D agency shall send the notice of withholding to the obligor within 15 days after serving the order to withhold on the holder.”.

(k) Section 11 (D.C. Official Code § 46-210) is amended to read as follows:

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§ 46-210

“Sec. 11. Objections to withholding.

“(a) An obligor may object to a withholding commenced pursuant to section 8a by filing a motion to quash the withholding with the Court within 15 days after the earlier of the date the notice of withholding was mailed or the date the first payment was withheld.

“(b) The Court shall resolve any motion to quash the withholding within 90 days after service of the motion on the opposing party, unless, upon a showing of good cause, the Court finds that additional time is needed to resolve the motion.

“(c) The only ground for an objection to a withholding is a mistake of fact, which is defined as:

“(1) A mistake in the amount of arrears;

“(2) A mistake in the identity of the obligor; or

“(3) A mistake in the amount of the withholding that causes the amount withheld to exceed the limits specified in section 9 or section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)).

“(d) Payment of arrearages after the date of issuance of a notice of withholding to the obligor pursuant to section 10 is not a defense to the withholding.

“(e) The Court shall deny the motion in all cases except where the identity of the obligor is mistaken or, if applicable, where arrearages have never equaled one month of support payments, and shall notify the obligor.

“(f) If the Court determines that the amount to be withheld exceeds the limits of section 9 or section 303(b) of the Consumer Credit Protection Act, the Court shall serve or direct the IV-D agency to serve an order to withhold on the holder that complies with those limits.

“(g) The Court shall deny any request to stay the withholding pending resolution of an objection or appeal.”.

(l) Section 12 (D.C. Official Code § 46-211) is amended to read as follows:

Note,  
§ 46-211

“Sec. 12. Notice to withhold to the holder.

“A notice or order to withhold served pursuant to section 8a shall be issued in the format required by federal law and shall state the following:

“(1) The amount to be withheld, including any fee deducted and retained under section 13;

“(2) That the amount to be withheld shall not exceed the limits imposed under section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b));

“(3) That the holder shall withhold from the obligor's earnings or other income the amount specified in the notice or order to withhold, pay the withheld amount to the Collection and Disbursement Unit within 7 business days after the date the income would have been paid to the obligor, and report to the Collection and Disbursement Unit the date on which the amount was withheld;

“(4) That the holder shall begin withholding no later than the first pay period occurring 10 days after the date the notice or order to withhold was issued;

“(5) That the holder may deduct and retain an additional \$ 2 for processing costs or, if applicable, an amount permitted under section 13(e);

“(6) That the withholding is binding on the holder until further notice;

“(7) That the holder may be fined in accordance with section 20(c) for discharging an obligor from employment, refusing to employ an obligor, or taking disciplinary action against an obligor because of the withholding;

“(8) That, if the holder fails to withhold support payments from earnings or other income or remit these payments to the Collection and Disbursement Unit as required under this act, the holder shall be liable as specified in section 14;

“(9) That the withholding has priority over any other legal process under District law;

“(10) That the holder may combine withheld amounts from more than one obligor in a single payment and separately identify the portion of the payment that is attributable to each obligor;

“(11) That the holder shall withhold according to the requirements of section 13; and

“(12) That the holder shall give notice to the IV-D agency of a termination of the obligor's employment as required by section 17.”

(m) Section 13 (D.C. Official Code § 46-212) is amended to read as follows:

“Sec. 13. Holder's duty to withhold and make payments.

Note,  
§ 46-212

“(a) Except as provided in subsection (e) of this section, a holder that receives a notice or order to withhold issued in accordance with this act shall withhold the specified amount and make payment to the Collection and Disbursement Unit no later than 7 business days after the date the amount would have been paid or credited to the obligor. The holder shall begin withholding no later than the first pay period occurring 10 days after the date the notice or order to withhold was issued.

“(b) If a holder receives notice of any legal proceeding challenging the withholding or the judgment or order of support on which it is based, the holder shall continue to withhold and

submit the payments to the Collection and Disbursement Unit until the holder receives written notice from the Court or the IV-D agency directing the holder to cease the withholding.

“(c) Any payment made by a holder in conformity with this section shall discharge the liability of the holder to the obligor to the extent of the payment.

“(d) A holder upon whom a notice or order to withhold has been served may deduct and retain from the obligor’s earnings or other income an additional \$ 2 for each deduction made in accordance with the notice or order to withhold. Where the total amount to be withheld, together with a fee, exceeds the limitations set forth in section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)), the holder shall reduce the amount of the withholding to conform with these limitations, but the amount of the fee shall not be reduced by reason of the limitations.

“(e) Notwithstanding any other provision of this act, if a holder receives a notice or order to withhold issued by another state, the holder shall apply the income withholding law of the state of the obligor’s principal place of employment in determining:

- “(1) The holder’s fee for processing the notice or order to withhold;
- “(2) The maximum amount permitted to be withheld from the obligor’s income;
- “(3) The time periods within which the holder must implement the withholding and forward the support payment;
- “(4) The priorities for withholding and allocating income withheld for multiple support obligees; and
- “(5) Any withholding terms or conditions not specified in the notice or order to withhold.”.

(n) Section 14 (D.C. Official Code § 46-213) is amended as follows:

Note,  
§ 46-213

(1) Subsection (a) is amended as follows:

- (A) Strike the phrase “income or other earnings” and insert the phrase “earnings or other income” in its place.
- (B) Strike the phrase “obligor,” and insert the phrase “obligor, obligee,” in its place.

(C) Strike the phrase “responsible relative.”

(2) Subsection (b) is amended by striking the phrase “failure to withhold” and inserting the phrase “failure to withhold or make payment” in its place.

(o) Section 15 (D.C. Official Code § 46-214) is amended to read as follows:

Note,  
§ 46-214

“Sec. 15. Termination of withholding.

“(a) Withholding shall terminate:

- “(1) When the support obligation has been terminated and the total arrearage has been satisfied;
- “(2) When the holder, by reason of termination of employment or other reason, no longer holds earnings or other income payable to the obligor;
- “(3) When the payee has failed to give notice to the Court and the IV-D agency of a change of address as required by section 27b, and the holder receives written notice from

the Court or the IV-D agency that withholding is no longer required; or

“(4) When the holder receives written notice from the Court or the IV-D agency that withholding is no longer required based on information received from another jurisdiction.

“(b) The Court shall provide the IV-D agency with a copy of each notice of termination it issues to a holder within 2 business days after issuance.

“(c) If, because of the failure of a payee to give notice to the Court and the IV-D agency of a change in address as required by section 27b, the Collection and Disbursement Unit is unable, for a 3-month period, to deliver payments received pursuant to a notice or order to withhold, the IV-D agency shall send written notice to the holder to cease the withholding. The Collection and Disbursement Unit shall prorate and apply the undeliverable payments to satisfy amounts the obligor owes under other support orders, and shall prioritize these payments in accordance with section 18. If the obligor does not owe support under an additional support order, the Collection and Disbursement Unit shall apply the payments to any fees or debts owed to the IV-D agency and return the balance of the undeliverable payments, if any, to the obligor.”.

(p) Section 16 (D.C. Official Code § 46-215) is amended by striking the phrase “of withholding issued by the Court” and inserting the phrase “to withhold issued by the IV-D agency” in its place.

Note,  
§ 46-215

(q) Section 17 (D.C. Official Code § 46-216) is amended as follows:

Note,  
§ 46-216

(1) Subsection (a) is amended by striking the word “Court” and inserting the phrase “IV-D agency” in its place.

(2) Subsection (b) is amended to read as follows:

“(b) The IV-D agency shall serve an order to withhold on the obligor’s new employer within 2 business days after receipt of information regarding the obligor’s new place of employment, or within 2 business days after the date information regarding the obligor is entered into the District of Columbia Directory of New Hires pursuant to section 27f, whichever occurs first.”.

(r) Section 18(b) (D.C. Official Code § 46-217(b)) is amended to read as follows:

“(b) If current support payments do not exceed the limits of section 303(b) of the Consumer Credit Protection Act, the Collection and Disbursement Unit shall prorate payments toward health insurance coverage, medical support, arrearages, and other costs and fees among the orders and prioritize these payments in accordance with section 108 of the Medical Support Establishment and Enforcement Amendment Act of 2004, effective March 30, 2004 (D.C. Law 15-130; D.C. Official Code § 46-251.08), and applicable federal requirements.”.

Note,  
§ 46-217

(s) Section 19 (D.C. Official Code § 46-218) is amended to read as follows:

Note,  
§ 46-218

“Sec. 19. Voluntary income withholding.

“(a) An obligor may obtain voluntary income withholding by filing with the IV-D agency a request for withholding and, if the support order is from another jurisdiction, a certified copy of the support order.

“(b) Upon receipt of a request under subsection (a) of this section, the IV-D agency

shall serve an order to withhold on the holder specified in the obligor's request. Payments shall be made through the Collection and Disbursement Unit."

(t) Section 20 (D.C. Official Code § 46-219) is amended as follows:

Note,  
§ 46-219

(1) Subsection (a) is amended as follows:

(A) Strike the phrase "employee or" wherever it appears.

(B) Strike the word "child" after the phrase "purposes of paying".

(2) Subsection (b) is amended by striking the phrase "the notice to the holder pursuant to section 12," and inserting the phrase "a notice or order to withhold," in its place.

(3) Subsection (d) is amended by striking the word "child" after the phrase "duty of".

(u) Section 21 (D.C. Official Code § 46-220) is amended by striking the word "order" after the phrase "satisfy the withholding".

Note,  
§ 46-220

(v) Section 22 (D.C. Official Code § 46-221) is amended by striking the phrase "notice of withholding" and inserting the phrase "notice or order to withhold" in its place.

Note,  
§ 46-221

(w) Section 23 (D.C. Official Code § 46-222) is amended to read as follows:

Note,  
§ 46-222

"Sec. 23. Interstate withholding.

"(a) Upon receipt of notice from another state that withholding is required to enforce a support order, including all documents and information necessary to carry out the withholding, the IV-D agency shall implement the withholding in accordance with section 8a.

"(b) If the IV-D agency determines that the obligor is no longer employed in the District of Columbia, the IV-D agency shall provide the initiating jurisdiction with the name and address of the obligor and the obligor's new employer, if known.

"(c) The IV-D agency, upon receiving a certified copy of a modification of a support order entered or registered in the District of Columbia, shall initiate necessary procedures to amend or modify a withholding that is based on the support order that has been modified."

(x) Section 24 (D.C. Official Code § 46-223) is amended to read as follows:

Note,  
§ 46-223

"Sec. 24. Initiation of withholding in other jurisdictions.

"(a) When an obligor under a support order derives income in another jurisdiction, the IV-D agency, the Court, or any other appropriate person or entity may serve a notice or order to withhold on a holder in the jurisdiction where the obligor receives income.

"(b) In any case being enforced by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C.S. § 651 *et seq.*), where the IV-D agency determines that the obligor derives income in another jurisdiction and that interstate withholding is necessary to enforce the support order, the IV-D agency shall, within 20 days of this determination, notify the IV-D agency in the jurisdiction in which the obligor derives income to implement interstate withholding. The notice shall include all information necessary to carry out the withholding, including:

"(1) The amount requested to be withheld;

"(2) A copy of the support order with all modifications; and

"(3) A statement of arrears, if appropriate."

(y) Section 25(c) (D.C. Official Code § 46-224(c)) is amended by striking the phrase "subsection (a)" and inserting the phrase "subsection (b)" in its place.

Note,  
§ 46-224

(z) Section 25b (D.C. Official Code § 46-224.02) is amended to read as follows:

Note,  
§ 46-224.02

"Sec. 25b. Parent locator service.

"(a) The IV-D agency is established as the District's centralized Parent Locator Service to locate parents of children in need of support.

"(b) An officer or employee of the District shall cooperate with the IV-D agency to determine the location of a parent who is not supporting his or her child. The officer or employee shall provide any pertinent information that relates to the location, income, or property of a parent, notwithstanding any District statute, ordinance, or rule that makes the information confidential.

"(c) A company, corporation, partnership, association, union, organization, or entity doing business in the District shall provide the IV-D agency with the following available information, if the IV-D agency certifies that the information shall be used to locate a parent of a child in need of support and that the information obtained will be treated as confidential by the IV-D agency unless the parent's name is published or reported to a consumer credit reporting agency pursuant to section 26:

"(1) Full name of the parent;

"(2) Name and address of the parent's employer;

"(3) Social security number of the parent;

"(4) Date of birth of the parent;

"(5) Home address of the parent;

"(6) Amount of wages earned by the parent; and

"(7) Number of dependents claimed by the parent on state and federal income withholding forms.

"(d) A person may not knowingly refuse to give the IV-D agency information that will assist the IV-D agency in locating the parent of a child.

"(e) A person who knowingly refuses to provide information or provides false information that has been requested pursuant to subsection (c) of this section, upon conviction, shall be imprisoned for not more than 3 months, fined not more than \$1,000, or both."

(aa) Section 26b (D.C. Official Code § 46-225.02) is amended to read as follows:

Note,  
§ 46-225.02

"Sec. 26b. Criminal contempt remedy for failure to pay child support.

"(a) The Mayor or a party who has a legal claim to child support may initiate a criminal contempt action for failure to pay the support by filing a motion in the civil action in which the support order was established.

"(b)(1) Upon a finding by the Court that an obligor has willfully failed to obey a lawful support order, the Court may:

"(A) Commit the obligor to jail for a term not to exceed 180 days;

"(B) Order the obligor to participate in a rehabilitative program, if the Court determines that participation would assist the obligor in complying with the support order

and access to such program is available;

“(C) Order the obligor to accept appropriate available employment or participate in job search and placement activities; or

“(D) Place the obligor on probation under such conditions as the Court may determine and in accordance with the provisions of the criminal procedure law.

“(2) The Court may direct that an obligor's commitment may be served upon certain specified days or parts of days. The Court may suspend all or part of a sentence and may, at any time within the term of the sentence, revoke the suspension and commit the obligor for the remainder of the original sentence. A period of commitment shall not prevent the Court from committing the obligor for a subsequent failure to comply with a support order.

“(3) For the purposes of paragraph (1)(B) of this subsection, the term "rehabilitative program" shall include work preparation and skill programs, non-residential alcohol and substance abuse programs, and educational programs.

“(c) The Court shall order the obligor to pay the petitioner's attorney's fees as well as court costs, unless good cause can be demonstrated on the record against this result.

“(d) For purposes of this section, failure to pay child support, as ordered, shall constitute prima facie evidence of a willful violation. This presumption may be rebutted if the obligor was incarcerated, hospitalized, or disabled during the period of nonsupport. These circumstances do not constitute an exhaustive list of circumstances that may be used to rebut the presumption of willfulness.

“(e) The Court shall not deny a request for relief pursuant to this section unless the facts and circumstances constituting the reasons for its determination are set forth in a written memorandum of decision.”

(bb) Section 27 (D.C. Official Code § 46-226) is amended as follows:

Note,  
§ 46-226

(1) Subsection (a) is amended by striking the phrase “notice of income withholding,” and inserting the phrase “notice or order to withhold,” in its place.

(2) Subsection (b) is amended by striking the phrase “an income withholding notice” and inserting the phrase “a notice or order to withhold” in its place.

(cc) Section 27c (D.C. Official Code § 46-226.03) is amended as follows:

Note,  
§ 46-226.03

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended by inserting a comma after the word “company”.

(B) Paragraph (4)(H) is amended by striking the phrase “Department of Public Works, Bureau of Motor Vehicle Services;” and inserting the phrase “Department of Motor Vehicles;” in its place.

(C) Paragraph (6) is amended to read as follows:

“(6) Order income withholding, including the amount of periodic support payments and any additional amount for health insurance coverage, medical support, overdue support payments, and other costs or fees required under a support order;”.

(2) Subsection (b) is amended by striking the period at the end and inserting the



phrase “, except that the IV-D agency shall provide notice of withholding to the obligor only as required pursuant to section 10.” in its place.

(3) Subsection (c) is amended by adding the sentence “This subsection shall not apply to IV-D agency actions related to the withholding of earnings or other income under this act.” at the end.

(4) Subsection (e) is amended as follows:

(A) Strike the phrase “Family Division of the Superior” in the first sentence.

(B) Strike the word “Superior” wherever it appears in the third sentence.

(5) Subsection (f) is amended by striking the word “Superior” wherever it appears.

(dd) Section 27f (D.C. Official Code § 46-226.06) is amended as follows:

Note,  
§ 46-226.06

(1) Subsection (f) is amended to read as follows:

“(f) Within 2 business days after the date a report under subsection (b) of this section is entered into the District of Columbia Directory of New Hires, the IV-D agency shall transmit an order to withhold to the employer in accordance with this act, unless the employee's income is not subject to withholding.”.

(2) Subsection (i) is amended by adding the phrase “of the District of Columbia” after the phrase “Superior Court”.

(ee) Section 27g(a) (D.C. Official Code § 46-226.07(a)) is amended by striking the sentence “For the purposes of this section, the term “business day” means a day on which District government offices are open for regular business.”.

Note,  
§ 46-226.07

(ff) Section 27i (D.C. Official Code § 46-226.09) is amended as follows:

Note,  
§ 46-226.09

(1) Strike the phrase “assistance under TANF” and insert the phrase “public assistance” in its place.

(2) Strike the word “Superior”.

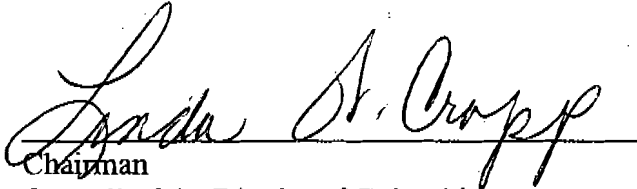
#### Sec. 4. Fiscal impact statement.


The Council adopts the fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
D.C. Official Code § 1-204.12(a)).

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia  
APPROVED  
July 26, 2005

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-168

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 26, 2005

FISCAL YEAR 2006 BUDGET SUPPORT EMERGENCY ACT OF 2005

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To amend, on an emergency basis, the Fiscal Year 2005 Budget submission to allow the Mayor to submit to the Council a segmented budget; to amend Title 47 of the District of Columbia Code to establish performance measures by which agencies under performance based budgeting or funded by O-type funds shall be evaluated; to establish a criteria for contingency funds spending; to allocate additional revenue realized through a revised quarterly revenue estimate; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to provide that no subordinate agency may negotiate a collective bargaining agreement; to allow the Mayor to issue a grant solely for the purpose of education and informing the general public on the District's lack of voting rights; to amend the District of Columbia Appropriations Act, 1955, to create a nonlapsing working fund for the receipt and expenditure of certain funds received by the Office of Property Management; to amend the Tobacco Settlement Trust Fund Establishment Act of 1999 to provide that the Board of Trustees' duty to meet begins once funds are deposited into the Fund; to amend the District of Columbia Procurement Practices Act of 1985 to authorize an operating fund to pay the costs of conducting District of Columbia surplus personal property sales and of operating and maintaining the Personal Property Division of the Office of Contracting and Procurement; to amend Title 47 of the District of Columbia Official Code to increase the standard deduction from \$2000 to \$2500; to amend Title 47 of the District of Columbia Official Code to increase the earned income tax credit to 34% of the federal credit and make it nonrefundable; to amend the Title 47 of the District of Columbia Code to allow the Mayor to assess a collection fee; to amend Title 47 of the District of Columbia Code to establish a dedicated fund to fund the Compliance Administration and the Real Property Tax Administration; to amend Title 47 of the District of Columbia Official Code to increase the homestead deduction from \$38,000 to \$60,000; to amend Title 47 of the District of Columbia Code to create a dedicated fund for the payment of unbudgeted commodity costs; to amend An Act To authorize the Commissioners of the District of Columbia to prescribe penalties for the handling and collection of dishonored checks to establish a fund for the collection of fees from dishonored checks; to amend Title 47 of the District of Columbia Official Code to amend section 47-363 of the District of Columbia Official Code to make an adjustment to the reprogramming threshold for capital projects; to amend Title 47 of the District of Columbia Official Code to provide a real property tax deferral for low-income District resident property owners and a real property tax deferral for low-income senior property owners; to amend Title 47 of the District of Columbia Official Code to exempt from taxation certain property of and provides equitable real property tax relief to The Catholic University of America for the Soldier's and Airmen's Home; to amend Title 47 of the District of Columbia Official

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Code to provide tax and fee waivers and exemptions for the Carver 2000 Low-Income and Senior Housing Project provides WIN/Enterprise Fort Dupont Nehemiah Homes Inc. with a deferral from recordation and real property taxes for 2 years and an exemption from the same for up to 4 years based on sales to low-income homeowners; to amend Title 47 of the District of Columbia Official Code to exempt from taxation certain property of and provide equitable real property tax relief to the Way of the Cross Church of Christ for use of the property as the home for their pastor; to amend Title 47 of the District of Columbia Official Code to exempt from taxation certain property of and provide equitable real property tax relief to the Board of Trustees of the Endowment Fund of Appalachian State University; to amend Title 47 of the District of Columbia Official Code to exempt intra-family transfers of property between grandparents and grandchildren from the recordation and transfer tax; to amend Title 47 of the District of Columbia Official Code to exempt from taxation certain property of a subsidiary of the American Psychological Association; to amend Title 47 of the District of Columbia Official Code to retroactively exempt the collection and disposal of recyclables in the District of Columbia from sales tax and provide tax relief to Consolidated Waste Industries; to amend Title 47 of the District of Columbia Official Code to make technical corrections to the existing provider tax; to amend Washington Convention Center Authority Act of 1994 to establish Washington Convention Center Authority Marketing Fund; to amend Title 47 of the District of Columbia Official Code to limit real property tax increases to 10% of the prior year's tax for certain owner-occupied properties; to amend Title 47 of the District of Columbia Official Code to revise real property tax rates for Class 1 real property; to amend Title 47 of the District of Columbia Official Code to provide for a mechanism for recomputing real property tax rates for Class 1 real properties; to amend Title 47 of the District of Columbia Official Code to provide real property valuation rules for limited-equity cooperatives; to amend Title 47 of the District of Columbia Official Code to provide real property valuation rules for certain nonprofit housing organizations; to amend Title 47 of the District of Columbia Official Code to adjust the prior year's taxable assessment for triennial groups 1 and 2 for purposes of the owner-occupant residential tax credit; to amend Title 47 of the District of Columbia Official Code to provide to disabled persons an income tax exclusion not to exceed \$10,000 for income from any source; to amend Title 47 of the District of Columbia Official Code to provide a 50% reduction to disabled persons on their property tax liability; to create an administrative funding surtax for administering the unemployment compensation law; to create a year round employment program for out-of school District youth; to create a Transitional Employment and Pre-Apprenticeship Program for District residents; to establish the Great Streets Development Fund, and to require the Mayor to transmit legislation to implement the program; to amend the Housing Production Trust Fund of 1998 to allow the funds to be used for the New Communities Initiative upon approval of a plan by an act of the



Council and in accordance with District of Columbia Municipal Rules and Regulations, and to permit the funds to secure the issuance of revenue bonds; to amend the Omnibus Utility Amendment Act of 2004 to add a funding source for the Natural Gas Trust Fund; to authorize the appropriation of additional revenues if the Chief Financial Officer certifies that funds are available; to amend An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes to allow the Office of People's Counsel to obtain assessments of special franchise tax deposits in instances of cases involving bankruptcy of a company with whom a public utility has contracts and where the utility alleges that the bankruptcy may have adverse consequences on District of Columbia ratepayers; to amend the District of Columbia Housing Authority Act of 1999 to provide that local revenues of the District appropriated funds for the Housing Authority shall not be deposited in the dedicated fund of the Housing Authority and shall be expended and accounted for in the same manner as all other District agencies; to amend Title 28 of the District of Columbia Code to revitalize consumer protection in the District, including enforcement options through the Department of Consumer and Regulatory Affairs and before the Office of the Attorney General and the courts; to amend the Insurance Regulatory Trust Fund Act of 1993 and the Certified Capital Companies Act of 2003 to authorize the Department of Insurance, Securities, and Banking to deposit fees generated from the Certified Capital Companies Act of 2003 in the Insurance Regulatory Trust Fund; to establish an Office of the Tenant Advocate as an office within the Department of Consumer and Regulatory Affairs responsible for education and outreach to tenants and the community about laws, rules, and other policy matters involving rental housing; to improve contracting and procurement opportunities for local, small, and disadvantaged businesses based in the District of Columbia by elevating the Office of Local Business Development to the Department of Small and Local Business Development, a subordinate agency in the executive branch of government, and charging the Department with enhanced compliance monitoring, meaningful advocacy, outreach, and efficient certification of eligible business enterprises, to establish the District of Columbia Small and Local Business Opportunity Commission to certify business enterprises for participation in the contracting and procurement programs of the District government, and to repeal the remaining provisions of the Minority Contracting Act of 1976 and the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1998; to amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to establish the Office of the Chief Medical Examiner Management Fund as a nonlapsing fund and to require that all revenue collected and deposited into the fund be used for personnel and non-personnel expenditures of the Office of the Chief Medical Examiner; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to require, starting in fiscal year 2006, Legal Service attorneys employed by subordinate

agencies to be transferred to the employment and control of the Office of the Attorney General for the District of Columbia, with agencies retaining responsibility for the compensation of these attorneys out of their own budgets during fiscal year 2006, to grant the Attorney General for the District of Columbia the authority to manage the Legal Service full-time equivalent budgets in the subordinate agencies, to conform Title VIII-B of the CMPA to Mayor's Order 2004-92, which renamed the Office of the Corporation Counsel as the Office of the Attorney General; to amend the Department of Mental Health Establishment Amendment Act of 2001 to make the General Counsel, or the equivalent, at the Department of Mental Health an employee of the Office of the Attorney General, under the full control of the Attorney General for the District of Columbia; to amend An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes to repeal obsolete references and to clarify that the People's Counsel is in the Senior Executive Attorney Service as mandated by the Legal Service Establishment Amendment Act of 1998; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to classify the attorneys and the Executive Director of the Public Employee Relations Board in the Legal Service; to establish the Department of Corrections Reimbursement Fund as a nonlapsing fund to be used to support the activities prescribed by the Memorandum of Understanding between the Department of Corrections and the United States Marshals Service; to amend the Education Licensure Commission Act of 1976 to require that all revenues collected by the Education Licensure Commission be deposited in the Education Licensure Commission Site Evaluation Fund; to amend the State Education Office Establishment Act of 2000 to establish the Education Licensure Commission Site Evaluation Fund as a nonlapsing fund to be used to cover costs associated with the Education Licensure Commission's review of educational institutions for licensing purposes; to amend the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools and Tax Conformity Clarification Amendment Act of 1998 to reflect inflationary adjustments and to repeal the 5% set-aside for District of Columbia Charter Schools; to amend the District of Columbia School Reform Act of 1995 to establish restrictions on reductions of school-based employees by the Board of Education; to establish the Fiscal Year 2006 Educational Investments Fund for District of Columbia Public Schools and Public Charter Schools into which shall be deposited \$25.2 million to be used by District of Columbia public schools and public charter schools to conduct activities leading to increased student achievement and improved school performance, and to provide that no funds from the fund may be available for expenditure unless the Superintendent, the District of Columbia Public Charter School Board, and the District of Columbia Board of Education Charter School Board submit to the Mayor, no later than December 31, 2005, a plan for the use of the funds; to establish a revolving, nonlapsing dedicated fund, within which shall be 2 dedicated accounts,

within the General Fund of the District of Columbia to be used to pay the debt service on revenue bonds issued to finance the repair and renovation of District schools and to make bond revenue available to the District of Columbia Public Schools for that purpose, and to establish criteria for the use of the bond revenue to make repairs and renovations to schools; to request that the Board of Education and Superintendent establish policies to ensure that 3<sup>rd</sup> grade students are able to read independently and understand the fundamentals of mathematics upon being promoted to the 4<sup>th</sup> grade, and that 8<sup>th</sup> grade students are able to read at or above grade level and are exposed to pre-algebra concepts in preparation for high school; to amend section 5(j) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 to permit the Mayor to establish and modify license fees for health-care facilities and agencies without prior Council approval and to amend section 47-2842 of the District of Columbia Official Code to remove the prohibition against license fees for child development homes; to amend the Clinical Laboratory Act of 1988 to include a physician office or other health care facility laboratory within the definition of clinical laboratory, define tests, to allow laboratories to operate without a license for one year from the date rules are issued, to clarify activities that shall be licensed, to provide that licenses shall be renewed every 2 years and to establish personnel requirements; to amend the District of Columbia Health Occupations Revision Act of 1985 to permit a designee to serve on the Board of Medicine for the Director, Department of Health; to amend the District of Columbia Public Assistance Act of 1982 to provide for a \$150-per-month child support pass-through and disregard for families in the Temporary Assistance to Needy Families program; to amend the Choice in Drug Treatment Act of 2000 to improve access to substance abuse rehabilitation; to amend the Department of Health Functions Clarification Act of 2001 to require that fee and fines relating to health be deposited in the Regulatory Enforcement Fund or the Health Occupations Regulations Fund; to require that the Maternal and Family Health Administration provide to the Council a plan for supplying Medicaid eligible service to children enrolled in public and charter schools; to amend title I of the AccessRx Act of 2004 to establish a Pharmaceutical Resource Center; to require that the Environmental Health Administration provide a report on the status a \$250,000 allocation; to require that the Health Care Regulation and Licensing Administration provide a report on the number of District residents in long-term care facilities located outside of the District of Columbia; to require the Policy, Planning and Research Administration to provide a report on the status of the proposed updated District State Health Plan; to require the Medical Assistance Administration to report on its effort to use State Childrens Health Insurance Program funds to expand eligibility for health services provided by DC Healthy Families; to require the Department of Health to provide a report on its effort to enter into an agreement with the Office of Administrative Hearings; to require the Department of Health and the Department of Mental Health to offer training; to require the

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Department of Health to provide a report on its effort to ensure that its private community services providers are billing appropriate costs to Medicaid providers; to require the Agency Management Program in the Department of Health to provide a report on all leases or tenancies for properties occupied by the Department Health; to require the Department of Mental Health, the Children and Family Services Administration, and the Department of Youth Rehabilitation Services to enter into an agreement for the Department of Mental Health to contract and authorize placement for children and youth requiring residential treatment center placement; to authorize the Department of Mental Health to participate in a retirement incentive program if one is offered; to amend section 115 of the Mental Health Establishment Amendment Act of 2001 to authorize the Department of Mental Health to seek amendment approval from the federal government and from the Council to provide for a per diem reimbursement for inpatient psychiatric treatment in certain cases; to establish a HIV/AIDs Crisis Area Capacity Building Fund to provide loans and grants to expand support to persons with HIV/AIDS in certain wards; to authorize the City Administrator to provide a grant, if available, of up to \$1.8 million to the District of Columbia Primary Care Association; to require a \$75,000 distribution to Howard University Hospital to support diabetes programs; to require a \$250,000 distribution to Howard University Hospital to supplement its prostate cancer screening program; to require a \$250,000 distribution to Greater Southeast Community Hospital to supplement a cancer screening program; to require a \$400,000 distribution to the American Lung Association of DC for tobacco cessation initiatives; to require a \$500,000 distribution to the Children's National Medical Center to meet Department of Health specified needs; to require a \$600,000 distribution to the District of Columbia Area Health Education Center for primary care and prevention for professional training programs and supplemental services and to facilitate access to matching federal funds; to require a \$100,000 distribution to the Washington Regional Transplant Consortium to assist with an organ transplant database; to require a \$500,000 distribution to Food & Friends for supplemental services; to require that no less than \$250,000 be made available for burial assistance; to require that \$1 million be made available to the Addiction Prevention and Recovery Administration Choice in Drug Treatment Program to coordinate comprehensive treatment for and support of substance abusers with HIV/AIDS; to require that \$323,000 of funds appropriated in fiscal year 2006 for the HIV/AIDS Administration be made available for inmates of Oak Hill Juvenile Detention Center and the D.C. Jail for the purpose of counseling, testing, and referral services; to require that \$150,000 be provided to Transgender Health Empowerment, Inc., for HIV/AIDS support services and prevention education; to require that \$50,000 be provided to Greater DC Cares to assist with creation of a volunteer emergency responder data base and \$150,000 be provided to the District of Columbia Hospital Association for the Terrorism Response Planning; to make \$5 million available for the Department of Health to contract with the School of

Public Health at George Washington University; to allocate \$2 million for contractual services in the Office of Program Integrity to perform audits of Medicaid programs; to require that no less than \$1.5 million be expended by the Office of Managed Care in the Medical Assistance Administration in the Department of Health to increase reimbursement rates and access to dental services; to require that no less than \$1,505,250 be expended for services to the elderly and physically disabled from funds appropriated in fiscal year 2006 for the Office of Disabilities and Aging in the Medicaid Assistance Administration in the Department of Health; to require that \$500,000 from funds for Office of Program Operations in the Medicaid Assistance Administration in the Department of Health be allocated to the Health Care Ombudsman Program; to require that \$2 million in Department of Health funds be used exclusively for the purpose of funding the Nursing Facility Quality of Care Fund; to require that \$1 million from Department of Health appropriated funds be granted to Southeastern University to develop training programs for allied health services; to require that \$900,000 be made available to the Addiction Prevention and Recovery Administration Choice in Drug Treatment Program to coordinate comprehensive treatment for and support of substance abusers with mental illness; to require that \$3.6 million of Department of Mental Health funds be allocated to school-based mental health services; to require that \$1.5 million of Department of Mental Health Direct Community Services funds be allocated to expand jail diversion programs and to provide mental health services at the D.C. Jail; to require that \$1 million of Department of Mental Health Direct Community Services funds be allocated to enhance the Department of Mental Health's housing program; to require that \$250,000 of Department of Mental Health Direct Community Services funds be allocated for a contract with the District of Columbia Birth Center, Inc., to support critical community work; to require that \$150,000 of Addiction Prevention and Recovery Administration funds be granted to the Wards on a priority need basis to be used for substance abuse prevention and outreach; to require that \$100,000 of Department of Mental Health funds be allocated to mental health services at the Addiction Prevention and Recovery Administration Detoxification Facility; to require that designated appropriation allocation in subtitle N of Title V of this act be consistent with the requirements of the District of Columbia Procurement Practices Act of 1985 to chapter 5000 of Title 1 of the District of Columbia Municipal Code or the terms and conditions of the federal funding source; to provide that a request for additional funding in Fiscal Year 2006 for the Child and Family Services Agency to hire necessary personnel transmitted by the Mayor to the Council shall identify the source of the funding and include a certification from the Chief Financial Officer that the funds are available and needed, and to clarify that the additional funding would be in addition to \$1 million of contingency funds potentially available to the agency for the hiring of personnel; to provide that \$3.3 million allocated to the Department of Mental Health for the provision of mental health services to foster-care children shall be transferred to the

Child and Family Services Agency if the Department of Mental Health is unable build the capacity to provide those services by October 1, 2005; to provide one-time nonrecurring funds to the Department of Health from the budgets of agencies under the purview of the Committee on Finance and Revenue; to amend the District of Columbia Traffic Amendment Act of 1990 to permit the increase of the fine for immobilized vehicles; to amend the Title 18 of the District of Columbia Municipal Regulations to increase various parking fines; to amend the Highway Trust Fund Establishment Act of 1996 to include 50% of sales and use taxes collected by the District for parking and storing vehicles to the source of funds for the Local Roads Construction and Maintenance Fund; to amend the International Registration Plan Agreement Act of 1997 to provide that a certain portion of International Registration Plan fees may be used by the Department of Motor Vehicles for operating costs; and to amend the Department of Transportation Establishment Act of 2002 to establish the District Department of Transportation Operating Fund.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2006 Budget Support Emergency Act of 2005".

**TITLE I. GOVERNMENT DIRECTION AND SUPPORT**

**SUBTITLE A. FISCAL YEAR 2006 BUDGET SUBMISSION AMENDMENT**

**Sec. 1001. Short title.**

This subtitle may be cited as the "Fiscal Year 2006 Budget Submission Emergency Amendment Act of 2005".

**Sec. 1002.** The Fiscal Year 2006 Budget Submission Act of 2004, effective December 7, 2004 (D.C. Law 15-205; 51 DCR 8441), is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a) Beginning with the submission of the fiscal year 2006 budget, the Mayor shall submit a budget to the Council that is segmented and distinctly identifies:

"(1) That portion of the budget submission in which local funds are consistent with the amount projected in spending for the previous fiscal year by the Council in its Committee of the Whole Report on the Budget Request Act; provided, that the amounts included in the Committee of the Whole Report are to be revised to incorporate supplemental budget actions approved by the District during the course of any fiscal year; provided further, that the revised projections are certified by the Office of the Chief Financial Officer; and

"(2) Any additional proposed budget expenditures not included in paragraph (1) of this subsection that are supported by the revenue and resources certified as available by the Office of the Chief Financial Officer."

(b) New subsections (e) and (f) are added to read as follows:

"(e) Beginning with the submission of the fiscal year 2007 budget, the Mayor shall include a Children's Budget report that:

"(1) Outlines the portion of the District's annual budget that is directed toward services and programs included in that budget that serve children and youth from birth to 18 years of age;

"(2) Includes all services that are directed toward children and youth or toward families for the benefit of their children;

"(3) Provides information on expenditures at the program and activity levels;

"(4) For agencies that are required to provide budget information at the service level, provides information at the program, activity, and service levels; and

"(5) For programs provided by the District of Columbia Public Schools, provides administrative cost of service information both including and excluding costs associated with non-local school administrative expenses.

"(f) The Office of the Chief Financial Officer ("OCFO") shall submit to the Mayor with its budget request, by agency, the total number of FTEs under supervision of the OCFO and the related personal services costs which the Mayor shall submit as part of each fiscal year's budget request."

#### Sec. 1003. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for Bill 16-200, for Bill 16-200, as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206(c)(3)).

#### SUBTITLE B. PERFORMANCE BASED BUDGETING AMENDMENT

##### Sec. 1005. Short title.

This subtitle may be cited as the "Performance-Based Budgeting Emergency Act of 2005".

Sec. 1006. Chapter 3 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the section designation "47-308.02. Relevant performance measures" and "47-308.03 Performance accountability reporting." after the section designation "47-308.01. Performance-based budget."

(b) Section 47-308.01 is amended by adding new paragraphs (3A), (3B) and (3C) to read as follows:

"(3B) "Relevant performance measures" means metrics established by the Mayor, after consultation with Stakeholders before the beginning of each fiscal year, that establish expectations about:

"(A) The results an agency will produce;

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“(B) The outputs or services the agency will produce;

“(C) The demands for activities from the agency; and

“(D) The efficiency with which the agency produces results, outputs, and services and meets the demands for activity by the agency.

“(3A) “Relevant cost drivers” are the basic causes behind service delivery that can be utilized to reasonably predict the cost of a service based on its level of activity, which for 2008 shall be reported at the program level and for 2009 and beyond shall be reported at the activity level.

“(3C) “Stakeholders” are the customers of an agency that use the agency’s services or products and may include both government customers and persons or corporations that are resident in the District.”.

(c) New sections 47-308.02 and 47-308.02 are added to read as follows:

“§ 47-308.02. Relevant performance measures.

“(a) Each relevant performance measure must be linked to spending on the relevant activity.

“(b) Each relevant performance measure shall represent a significant and realistic challenge for expected performance of the activity.

“(c) Each agency shall have at least one relevant performance measure for each activity.

“(d) Relevant performance measures for each fiscal year, shall be established by the Mayor or his designee, after consultation with the agency’s stakeholders.

“(e) Beginning with fiscal year 2007, and for each subsequent fiscal year, all relevant performance measures for the prior fiscal year shall be provided to the Council in January along with the performance accountability reports submitted pursuant to the Government Managers Accountability Act of 1995 effective May 16, 1995 (D.C. Law 11-16; D.C. Official Code §1-614.05 *et seq.*), and beginning with fiscal year 2008, and for each following fiscal year, all relevant cost drivers shall be provided with the relevant performance measures in accordance with § 47-308.03(e).

“(f) Beginning with fiscal year 2008, and for each subsequent fiscal year, the Mayor, or his designee, shall, in consultation with an agency’s stakeholders, establish relevant performance measures and utilize these performance measures in the agency’s strategic business plan.

“§ 47-308.03. Performance accountability reporting.

“(a) By September 30, 2005, the Mayor shall ensure that each agency engaged in Performance Based Budgeting shall meet with its stakeholders to review and update its current relevant performance measures.

“(b) By September 30, 2006, and each subsequent year, the Mayor shall ensure that for the following fiscal year each agency activity has at least one relevant performance measure and per program one relevant cost driver.

“(c)(1) No later than January 15<sup>th</sup> of each year, the Mayor shall submit to the Council a performance accountability report that includes the evaluation of each agency’s performance on



its activities for the preceding fiscal year and includes all relevant performance measures, as determined in accordance with subsections (a) or (b) of this section, whichever is applicable.

(2) The report shall provide quantitative or qualitative results for the relevant performance measures, where available, accompanied by an analysis of the results achieved.

"(d) Beginning with the District of Columbia's fiscal year 2007 budget and financial plan and continuing in subsequent fiscal years, the Mayor, in consultation with the Chief Financial Officer, shall provide for each agency under performance-based budgeting or funded by O-type funds, relevant performance measures that comply with subsection (c) of this section for Council review within 180 days of the beginning of the fiscal year.

"(e) For fiscal year 2007, and each subsequent fiscal year, each independent and executive agency shall have at least one relevant performance measure for each activity reported in the budget and financial plan. Beginning with fiscal year 2008, each independent and executive agency shall have at least one relevant cost driver reported in the budget and financial plan, which for 2008 shall be reported at the program level and for 2009 and beyond shall be reported at the activity level.

"(f) For each fiscal year, the Mayor shall:

"(1) Submit a copy of the measures developed pursuant to subsection (a) of this section to the Council for review for informational purposes no later than May 31<sup>st</sup> indicating each relevant performance measure published in the Budget and Financial Plan that was not used to evaluate agency directors for bonuses; and

"(2) Publish in the Budget and Financial Plan, at least one relevant performance measure for each agency activity, including a summary explanation of why the measures assist in holding the agency's management accountable for their use of public funds."

#### Sec. 1007. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for Bill 16-200, as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

### SUBTITLE C. CRITERIA FOR SPENDING CONTINGENCY FUNDING

#### Sec. 1010. Short title.

This subtitle may be cited as the "Criteria for Spending Pay-As-You-Go Contingency Funding Emergency Act of 2005".

#### Sec. 1011. Criteria for spending Pay-As-You-Go contingency funding in fiscal year 2006.

(a) Of the Pay-As-You-Go contingency funding for fiscal year 2006, a total of \$12,461,994 shall be made available upon the Mayor's submission of a request to the Council for its approval, as provided in subsection (c) of this section, in which the Mayor demonstrates and the Chief Financial Officer ("CFO") certifies that funds are needed as follows: